

EXHIBIT 6

REDACTED FOR PUBLIC FILING

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE TERRORIST ATTACKS ON
SEPTEMBER 11, 2001

Civil Action No. 03-MD-1570

REBUTTAL EXPERT REPORT OF MARC SAGEMAN

MAY 16, 2022

SUBJECT TO FBI AND MDL PROTECTIVE ORDERS

hearsay from a single human source that was never fact-checked over more than a decade and a half. Such premature selection closes off other possibilities, including what really happened and may lead to the incorporation of erroneous “facts.” Over time, such erroneous facts may accumulate in reaching wrong conclusions that are later difficult to unravel since all the later documents relying on the original erroneous source constitute an echo chamber of false information. The process of favoring any account, including the one closer to what might have happened, must be delayed until the analytical stage when each of these accounts is carefully weighed and compared against the best available evidence elsewhere in the discovery material.

In this litigation, I sifted through as much evidence from the discovery material that I could. I did not rely on documents specifically selected by the lawyers that retained me. I reviewed tens of thousands of documents in addition to my previous store of knowledge relevant to this litigation and the discovery material, including all relevant FBI documents and witness depositions. When there were gaps, I requested further evidence to be provided to me to help fill them. I specifically searched for evidence incriminating the KSA as supporting the future hijackers who came to Southern California in early 2000. This search was facilitated by the plaintiffs’ relevant complaints and experts, who, I assume, present the most compelling evidence that the KSA provided material support for the two future hijackers. An expert must then carefully analyze these allegations by weighing them against the totality of the information available in the discovery material and in the larger set of evidence about terrorism and specifically AQ terrorism and the 9/11 attacks. Based on this careful analysis of all the evidence, an expert concludes with an opinion that fits most closely this full, nuanced, and complex set of evidence.

B. Updating Some Conceptual Issues for this Case

The issues in plaintiffs’ lawsuit impose categories that were not yet understandable at the time when a lot of the alleged activities took place. I was privileged to have been a U.S. government official from the spring of 1987 to the summer of 1989. As my assignment was to deal with Afghan mujahedin, I spent a significant part of my time in Peshawar. I was therefore familiar with how people thought about themselves and the categories they used in thinking

about their respective roles. Some of the following comments come from my own recollection of these times.

The category “terrorist” did not exist at the time in relation to the Islamist foreign militants who came to Peshawar to help the Afghans. At the time, it was only used in connection to a Pakistan International Airline plane hijacking in Karachi in March 1981, led by Murtaza Bhutto⁵¹ to avenge his father’s (former Prime Minister Zulfikar Ali Bhutto) execution by President Zia ul-Haq. The category did not apply to Afghans or those who came to help them. Still, it is of course legitimate to ask whether they contributed to the attacks of 9/11. However, in terms of how people understood what they were doing at the time, no one had the imagination to conceive anything like the future 9/11 attacks. Doing so is teleological, collapsing time and projecting backward a perspective that simply did not exist at that time.

What I later called the global Salafi jihad⁵² and then global neojihad⁵³ did not yet exist, nor did the type of terrorism that later became unfortunately more common, like the 1995 campaign of bombings in France, the East Africa U.S. embassies bombings in 1998, and of course the 9/11 attacks. At the time, terrorism was almost synonymous with plane hijacking. Suicide operations, like the 9/11 attacks, emerged first in Lebanon carried out by Shi’a militants, who were strongly rejected by the overwhelming majority of those who came to Pakistan to help the Afghans because they were mostly Islamist militants, who regarded Shi’a Muslims as heretics. Palestinian (Sunni) suicide bombings emerged in Israel in the mid-1990s but were still

⁵¹ Murtaza Bhutto was the brother of future Prime Minister Benazir Bhutto, both of whom were children of former Prime Minister Zulfikar Ali Bhutto.

⁵² Marc Sageman, 2004, *Understanding Terror Networks*, Philadelphia: University of Pennsylvania Press, at 1. As I wrote then, it sets “its violence against foreign non-Muslim governments and their populations in furtherance of Salafi objectives.” See for instance, Peter Bergen and Paul Cruickshank, 2012, “Revisiting the Early al Qaeda: An Updated Account of its Formative Years,” *Studies in Conflict and Terrorism*, Vol. 35, No. 1: 1–36, at 31, for someone else using this expression attributed to me.

⁵³ I believe this is a more accurate expression for the social movement that carried out the 9/11 attacks. See Marc Sageman, 2019, FN 2, at 251: “I have not found an elegant way to characterize this threat. It is global in the sense that its agents target what they call the ‘far enemy,’ the West, rather than the ‘near enemy,’ local despots in Muslim countries. It is ‘neo-jihad’ because fighters in its cause call themselves mujahedin or jihad fighters, while the vast majority of Muslims worldwide reject the notion that it is a jihad, a war with very stringent rules about what is and is not permitted. As no one has yet come up with a better term, I compromise between these two arguments and call it neo-jihadi, like jihad, but not precisely jihad.”

very much absent from the repertoire of activities among people who later carried out a global neojihad against the West. The bombing campaign in France in 1995 did not include any suicide operations. Therefore, in analyzing the causation link leading to the 9/11 attacks, we must be careful not to impose anachronistic categorization upon contemporary participants in addressing the legal issue posed in this litigation. Instead, we must try to understand their view of their roles that eventually led to the 9/11 attacks.

At the time when I came to Pakistan in early 1987, I had not yet heard about the Arabs, who had come to help their fellow Muslim Afghans. In fact, to my knowledge, none of the contemporaneous Western sources, whether journalists or covert sources, mentioned them. I first heard about them shortly after my arrival from Afghan commanders themselves, who addressed them as “Wahabis,” a derogatory term for these Arabs since many were Salafi and looked down on Afghans as backward and not well educated in Islam.

I only heard the expression Arab Afghans later, around the time of the 1995 GIA campaign of bombings in France. At the time, the narrative was that they were to blame for both the raging civil war in Algeria and its spillover in France. Only after the 1998 East Africa U.S. embassies bombings did I start hearing about AQ, and the lumping together of all foreigners who had traveled to help oppressed fellow Muslims as Arab Afghans or in some cases as AQ. After the 9/11 attacks, they were viewed as being indirectly or even directly responsible for the 9/11 attacks.⁵⁴

⁵⁴ See Brisard and Dasquié, 2001, *Ben Laden: La vérité interdite*, Paris: Éditions Denoël; Steven Emerson, 2002, *American Jihad: The Terrorists Living Among US*, New York: The Free Press; Rohan Gunaratna, 2002, *Inside Al Qaeda Global Network of Terror*, New York: Columbia University Press; Anonymous (Rita Katz), 2003, *Terrorist Hunter*, New York: HarperCollins Publishers; Kohlmann, 2004; Anonymous (Michael Scheuer), 2002, *Through Our Enemies' Eyes: Osama bin Laden, Radical Islam, and the Future of America*, Washington, D.C.: Brassey's, Inc, especially at 137–43. At one point, both Katz and Kohlmann worked for Steven Emerson. Even a scholar like Gilles Kepel got caught in the trap of believing that all the various jihads around the world were physically connected, see Gilles Kepel, 2002, *Jihad: The Trail of Political Islam*, Cambridge, Mass.: Harvard University Press, at 239, 250. They were the first to publish on the subject and framed future discussions on the 9/11 terrorists that lumped them all into one basket, resulting in inaccuracies even in the *9/11 Commission Report*. Under the same confusion, the U.S. government pressured Bosnian authorities to arrest six Bosnian Arabs and rendered to GTMO under the allegation that they were planning to attack the U.S. Embassy there or go to Afghanistan to fight U.S. forces. These six detainees were the subjects of the landmark case *Lakhdar Boumediene et al v. George W. Bush*, 553 U.S. 723 (2008), and were ordered released by the U.S. District Court judge, who commented that the government's case rested on

elicited protests from Sahwi scholars who accused the senior ulema of being palace ulema producing fatwas on demand of the political authorities.²¹³

Although Islamist militants worldwide had no sympathy for Saddam Hussein or the United States, they could not stay on the sideline. However, the prospect of U.S. troops, infidels, in the kingdom tilted many to side with Saddam Hussein. Despite years of receiving support from the kingdom, Hekmatyar and Sayyaf in Peshawar supported Saddam Hussein over the kingdom and many takfiris in Peshawar continued to condemn America and the West in general. AQ members in the Afghan theater refrained from commenting. An Islamic scholar, Sheikh Nizam al-Din, came from Saudi Arabia to justify the royal family's strategy: "the presence of the Americans and the Europeans in Saudi Arabia is permissible but with conditions. Since Saddam was working with Russia, the presence of the Americans becomes permissible, but they will have to leave."²¹⁴

According to Prince Turki, "It was in the summer of 1989, soon after the Soviet withdrawal, that we became particularly aware that they [Arab volunteers] were involving themselves in activities that had nothing to do with what should have been the continuing war against the Najibullah regime.... Our concern prompted us to start studying which Arab political groups were operating on the frontier and who were their members. We began to make lists of the people who had gone to the frontier – Saudis and others – and when we talked to our Pakistani colleagues, we found they were doing the same thing.... We did what we could, using our own GID agents and the various other people on the frontier who we had come to trust. Our list was certainly not comprehensive. We shared what we compiled with the Ministry of the Interior, which was interested in following the activities of the militants who had returned home."²¹⁵

In his diary, Mustapha Hamid wrote that he had enrolled his four children to the Saudi School in Islamabad. On 10 August, "The Saudi schools insisted on interrogating the children in order to gain information about my activities. When the children complained to their mother, she had a huge problem with the school at first, then the Saudi consulate, then the Saudi Embassy.

²¹³ Lacroix, 2011, at 161.

²¹⁴ Hamid, n.d., AFGP-2002-600092, Harmony Database, at 49, 98.

²¹⁵ Prince Turki, 2021, at 117–8.

The problem ended when the children were pulled from the school.”²¹⁶ About four weeks later when Hamid came to Islamabad to meet with some mujahedin, he was told that “two Saudi men ... were asking for me at Haqqani’s guest house. They had a picture of me and were asking Haqqani’s people: Did you know this man? Where is he? What is he doing, etc? ... [T]hey knew my real name (Mustafa Hamid), but they had no idea about my nickname (Abu al-Walid).”²¹⁷

Most accounts of bin Laden’s life in the kingdom at the time report that he felt humiliated by the royal family’s rejection of his help.²¹⁸ Prince Turki noted that he heard nothing more from bin Laden after his meeting with Prince Sultan until the last weeks of 1990 or early 1991, shortly before the start of the military campaign to liberate Kuwait. “He began preaching at the Bin Laden Mosque in Jeddah and speaking at schools without the permission of the Ministry of Education. His themes were the predictable ones: Muslims should unite, solve their own problems, and not allow infidels to become involved in their quarrels; Afghanistan had been neglected since the Soviet withdrawal; Palestine was still occupied. After a few such sermons and speeches bin Laden was invited to the headquarters of the Jeddah police and was advised to stop his activities. He was told he was not a preacher, and that before he made any more speeches he should ask for permission. He was arousing people’s emotions at a time when Saudi Arabia needed solidarity. Two months later, after the end of the war, he began preaching again, and this time he was summoned to the police headquarters and told more forcefully to stop. He obeyed this order. He was also told to inform the Ministry of the Interior if he intended to leave Saudi Arabia.”²¹⁹

To Peter Arnett, who asked him about his departure from the kingdom, bin Laden answered, “the Saudi regime imposed upon the people a life that does not appeal to the free believer. They wanted the people to eat and drink and sing the praise of God, but if the people

²¹⁶ Hamid, n.d., Harmony Database AFGP-2002-600092, at 18. Hamid later elaborated that the school administrators asked his children, “where is your father? What is he doing in Afghanistan? What are they doing in Miranshah? Who is visiting your father at home?” His wife complained to the administration and got rebuked by the school and the Saudi consulate. “They told her that she would face great punishment because she insulted the school administration.” The situation was resolved with the removal of the children from the school, at 55–6.

²¹⁷ Hamid, n.d., Harmony Database AFGP-2002-600092, at 95; Abd al-Hakim (Abu Musab al-Suri), 2004, at 52; see also Brynjar Lia, 2008, *Architect of Global Jihad: The Life of Al-Qaida Strategist Abu Mus’ab al-Suri*, New York: Columbia University Press, at 69–108.

²¹⁸ Coll, 2008, at 381; Wright, 2006, at 158; Lacey, 2009, at 154–6.

²¹⁹ Prince Turki, 2021, at 112–3.

wanted to encourage what is right and forbid what is wrong, they could not. Rather, the regime dismisses them from their jobs and in the event the people continue to do so [encourage what is right], they are detained in prisons. I have refused to live this submissive life, which is not befitting of man let alone a believer. So, I waited for the chance when God made it possible for me to leave Saudi Arabia.”²²⁰

There is some confusion as to when bin Laden left the kingdom. In an online interview, bin Laden said that he left the kingdom on 1 May 1991 and returned to Peshawar.²²¹ This is consistent with most of his biographies.²²² However, a prominent account claims that he returned to Peshawar almost a year later, in March 1992.²²³ This runs against much of the evidence like his departure for Khartoum estimated to have been in late 1991 or early 1992. However, the apparent inconsistency between the two dates may be resolved by realizing that bin Laden might have temporarily returned to Peshawar after his move to Khartoum. As he told journalist Peter Arnett, “I went to the Sudan and stayed there for about five years, during which I visited Afghanistan and Pakistan to work against the Communist government in Kabul.”²²⁴ So, bin Laden might have come back in April 1992 for a short visit to Peshawar after his move to Sudan.

By the time of bin Laden’s return to Peshawar, AQ had shrunk to about 60 trained members.²²⁵ He had already decided to move to Sudan with his organization, and most of his resources had been transferred there. Not much is known about his activities during this time. AQ was not very active in the fight against the Kabul regime to the frustration of the ansar still involved in supporting the Afghan mujahedin.²²⁶

During this period, an AQ member conducted the organization’s first act of political violence outside of the Afghan theater. It was a bizarre attempt on the life of former Afghan King Zahir Shah, who was in exile in Rome. The perpetrator was a Portuguese convert, Paulo

²²⁰ Bin Laden, in Lawrence, ed., 2005, at 49–50.

²²¹ Bin Laden, in Lawrence, ed., 2005, at 33.

²²² Bergen, 2006, at 116–20; Coll, 2008, at 381.

²²³ Wright, 2006, at 161; Prince Turki, 2021, at 159, “Bin Laden had been one of the many individuals who had assembled in Peshawar at the time of the fall of the Najibullah government in April 1992. I did not see him there.”

²²⁴ Bin Laden, in Lawrence, ed., 2005, at 50.

²²⁵ This is Hamid’s estimate since al Qaeda provided him with most of its forces for an operation in Afghanistan. Hamid and Farrall, 2015, at 178.

²²⁶ For instance, see Hamid, n.d., Harmony Database AFGP-2002-600092, *passim*; Hamid and Farrall, 2015, at 177–92.

Jose de Almeida Santos, who had come to participate in the Afghan conflict on the invitation of some Afghans during Umra, the lesser pilgrimage to Mecca. He arrived in March 1990 (a year after the Soviet withdrawal), trained in an AQ camp, and was recruited into the organization. After the fall of Khowst in 1991, AQ had grown close to Gulbuddin Hekmatyar, who had threatened to kill the king if he dared to come back and re-establish the monarchy. That gave Almeida Santos the idea to go and kill the king. He briefed bin Laden in Peshawar about his intention. When he asked whether it was permissible to attack the king if a child was present, bin Laden replied, “No, no way... We are Muslims, we do not eliminate children.” At the end of the discussion, bin Laden was non-committal and did not give Almeida Santos any specific order. He went to Rome in November 1991 and got invited to the king’s house for coffee. After an hour sipping coffee with the king, Almeida Santos stabbed him. The king barely survived. The perpetrator did not defend himself at trial: “It was an act of war in a country that was not at war, so I had to pay the consequences.”²²⁷

Bin Laden and most of his deputies, Abu Ubaydah, Abu Hafs, Mustafa Abu al-Yazid (Sheikh Saeed al-Masri), and Salim, moved to Khartoum in late 1991²²⁸ or early 1992,²²⁹ leaving behind two consolidated camps, Jihadwal and al-Faruq. Mustafa Hamid used al-Faruq for his Furqan Project, the training of Uzbek, Tajik, and Chechen cadres for the Islamic liberation of their respective countries.²³⁰ However, by the end of 1994, bin Laden closed both camps and their skeleton crew including Hamid left for Khartoum in early 1995.²³¹ Al Qaeda no longer had

²²⁷ Almeida Santos’s interview is translated and published in Bergen, 2006, at 116–20. The initiative came from the perpetrator, and, from the perpetrator’s confession, it is unclear whether it was sanctioned by AQ, which of course did nothing to stop him. To my knowledge, neither AQ nor bin Laden ever took credit for this assassination attempt.

²²⁸ Ali Mohammed claimed that he helped transport him to the Sudan in 1991 at his plea agreement hearing, *U.S. v. Ali Mohamed*, S.D.N.Y., S(7) 98 Cr. 1023 (LBS), October 20, 2000, at 27, at PEC-WAMY015985; Abdel Bari Atwan, 2006, *The Secret History of al Qaeda*, Berkeley: University of California Press, at 47.

²²⁹ Julaidan, in Bergen, 2006, at 129.

²³⁰ Hamid and Farrall, 2015, at 197–205.

²³¹ Abu ‘Ata al-Sharqi, 1994, “Report from Afghanistan,” West Point: Combating Terrorism Center, available at <https://ctc.usma.edu/app/uploads/2013/10/Abu-Ata-Al-Sharqi-Reports-from-Afghanistan-Translation.pdf>; Vahid Brown, 2008, “Abu’l Walid al-Masri: A Biographical Sketch,” West Point: Combating Terrorism Center, available at <https://ctc.usma.edu/app/uploads/2011/06/Abul-Walid.pdf>.

any presence in Afghanistan and Pakistan after that, leaving the training of Islamist militants to its rival, Khalden.

b. AQ's Sudanese Exile

The four and a half years that bin Laden and AQ spent in Sudan are relatively neglected in the AQ literature.²³² For this litigation, this period is critical because it was during this second phase of al Qaeda's evolution that the conflict between AQ and the KSA escalated to the breaking point, from which it never recovered.

Apparently, bin Laden had carefully prepared his move to Khartoum at the invitation of the new Sudanese government.²³³ He sent a team to explore the possibility of the move, and it came back with a positive recommendation. He then sent a small contingent to prepare the ground for the move. Jamal al Fadl, a Sudanese member of AQ, was tasked to rent or buy real estate to facilitate AQ's relocation. After bin Laden and his main deputies arrived in Khartoum, bin Laden invested heavily in the Sudanese economy to generate a stream of revenue for AQ. In quick succession, he created Wadi al-Aqiq, a holding company for his various enterprises that included the Laden International Company (for export), Taba Investment, and al-Hijra Construction for road and other infrastructure construction.²³⁴ The Sudanese government sometimes paid bin Laden in real estate. He also established an agricultural company, al Thimar al-Mubarak, which owned a huge one-million-acre farm at al-Damazin, employing approximately 4,000 people and from which he exported sesame, peanuts, white corn, and gum Arabic.²³⁵ Rumors of bin Laden's wealth were picked up by the CIA, which believed that he had

²³² The standard histories of AQ leading to the 9/11 attacks like Anonymous (Scheuer) (2002), Coll (2004), Bergen (2006), and Wright (2006) devote only a few pages to this long episode, which lasted almost as long as the initial Afghan/Peshawar period from AQ's creation to its departure to the Sudan and the later Afghan period when it returned to Afghanistan from the Sudan to the 9/11 attacks. Each of these periods lasts about four years. The exception is the Combating Terrorism Center monograph, Clint Watts, Jacob Shapiro, and Vahid Brown, 2007, *Al-Qaida's (Mis)Adventures in the Horn of African*, West Point: Combating Terrorism Center, available at <https://ctc.usma.edu/app/uploads/2010/06/Al-Qaidas-MisAdventures-in-the-Horn-of-Africa.pdf>. Unfortunately, much of what we know about this crucial period of AQ's evolution comes from Jamal al-Fadl, who turned out to be an unreliable source.

²³³ *U.S. v. Usama bin Laden et al*, S.D.N.Y., S(7) 98 Cr. 1023-LBS, Testimony of al-Fadl, February 6-7, 2001 (henceforth Fadl testimony), at 233-4.

²³⁴ Fadl testimony, February 6, 2001, at 240-3.

²³⁵ Wright, 2006, at 168; Mohamed Zeki Mahjoub, in Bergen, 2006, 126-8.

invested \$50 million in a local bank.²³⁶ As we saw in the previous estimate of his wealth, this seems much beyond bin Laden's financial capability.

Shortly after his arrival, bin Laden seemed to have traveled back to Peshawar to try to help prevent an explosion of Afghan in-fighting as several mujahedin groups were getting ready to take control of sections of Kabul as the capital had fallen on 15 April 1992. Pakistan Prime Minister Nawaz Sharif convened an emergency meeting of the competing resistance groups to form a government to rule the city peacefully. This meeting led to the 24 April 1992 Peshawar Accord.²³⁷ As Prince Turki remembered, "there was a huge meeting in Peshawar organized by Nawaz Sharif's government. There was a call for Muslim solidarity, to coerce those leaders of the Muslim world to stop going at each other's throats. I also saw him [bin Laden] there. Our eyes met, but we didn't talk. He didn't go back to the kingdom. He went to Sudan."²³⁸

Beside his economic activities, bin Laden continued to provide military training for AQ members. He set up a refresher training camp for weapons and explosives at the Damazin farm.²³⁹ He also tried to duplicate his Afghan exploits in nearby Somalia. In 1992, this country faced a widespread famine aggravated by a complete breakdown of order, preventing the distribution of food to its starving population. A U.N.-sanctioned Operation Restore Hope led by the United States was carried out in Somalia from early December 1992 and credited with saving more than 100,000 lives in the spring of 1993. However, U.S. forces got entangled in the free-for-all situation in the war-torn country as each local warlord wanted to keep his respective area of control. This culminated in the famous "Black Hawk Down" incident on 3 October 1993, resulting in two U.S. helicopters shot down with RPGs and the deaths of 18 U.S. troops and two Malaysian soldiers and 84 wounded, while the Somalis claimed to have suffered 312 dead and

²³⁶ Anonymous (Scheuer, the CIA chief of the station dedicated to bin Laden), 2002, at 123. In fact, the CIA greatly overestimated bin Laden's wealth until the 9/11 Commission investigation.

²³⁷ Tomsen, 2011, at 478–82, 486–8.

²³⁸ Martin Chulov, 2018, "My son, Osama: the al-Qaida leader's mother speaks for the first time," *The Guardian*, August 2, available at <https://www.theguardian.com/world/2018/aug/03/osama-bin-laden-mother-speaks-out-family-interview>. This is also the meeting that Larry Wright, 2006, at 161–2, refers to in his book.

²³⁹ Fadl testimony, February 6, 2001, at 244–6. This must have been later on during bin Laden's stay in the Sudan, since Mahjoub, who ran the farm until May 1993, swore there were no terrorist activities that took place there (Bergen, 2006, at 128) and the instructors (Sayf al-Islam and Sayf al-Adl) that al Fadl named did not come to the Sudan until after their stay in Somalia, as we shall soon see.

814 wounded. This bloody incident led to the decision to withdraw U.S. troops from Somalia, a task accomplished by 31 March 1994.²⁴⁰

The heralded arrival of U.S. troops in Somalia alarmed bin Laden and AQ, whose paranoia matched their grandiosity in their beliefs that this humanitarian intervention was not directed at famine relief but at them. At their Thursday evening discussions, Abu Ubaydah was convinced that it was just a pretense to invade Sudan and destroy them in a pincer movement from Saudi Arabia and Somalia. Now that the Soviet Union had collapsed, AQ's main enemy was the United States, the head of the snake, and they had to stop it. AQ's religious adviser argued that, in attacking their enemy, they should not worry too much about civilian collateral damage. If the victim was a good Muslim, he would be welcomed in paradise. If he was a bad person, he would go to hell.²⁴¹ This permission to kill civilians as collateral damage in accomplishing one's mission was a critical step in AQ's path toward becoming a full-fledged terrorist organization. The decision was made to send AQ trainers to Somalia to help expel U.S. troops from that country and to re-create in Somalia what Afghanistan had been for the ansar.

The first incident involving AQ was an incident that took place on 29 December 1992 in Aden, Yemen, where U.S. troops stopped over on their way to Somalia. AQ bombed two hotels where they believed the troops were quartered. They were wrong, but two tourists were killed and seven people wounded. This incident escaped notice from U.S. forces at the time and U.S. intelligence learned about it later from AQ sources.²⁴² Nevertheless, AQ transformed in their mind this mistaken killing of innocent civilians into a great victory, as U.S. troops left the country (on their way to Somalia). Bin Laden boasted to a friend visiting him in Khartoum, "We hit them in Aden, and they left. We hit them in Somalia, and they left again."²⁴³ In his later

²⁴⁰ Walter Poole, 2005, *The Effort to Save Somalia, August 1992 – March 1994*, Washington, D.C.: Office of the Chairman of the Joint Chiefs of Staff, Joint History Office, available at <https://www.jcs.mil/Portals/36/Documents/History/Monographs/Somalia.pdf>; see also the journalistic account, Mark Bowden, 2000, *Black Hawk Down: A Story of Modern War*, New York: Penguin Books.

²⁴¹ Fadl testimony, February 6, 2001, at 269–70; see also bin Laden's CNN interview with Peter Arnett in 1997, in Lawrence, ed., 2005, at 54.

²⁴² Anonymous (Scheuer), 2002, at 135. Since there is very little information about this incident, it is difficult to understand the degree of involvement of AQ personnel.

²⁴³ Wright, 2006, at 200.

interview with Peter Arnett, bin Laden boasted that Aden was an American defeat, after Vietnam and Beirut, and before Somalia.²⁴⁴

Bin Laden dispatched Abu Hafs back to Peshawar to brief AQ camps' trainers and send them on to Somalia. Only Sayf al-Adl (and soon even he would go there) and Mustafa Hamid remained, forming a skeleton crew for the two remaining AQ camps in Afghanistan. The trainers' mission was to find a location for military operations that would replace Afghanistan, be near Arab countries, and help Muslims in Somalia and Ogaden. They left in early February 1993 and flew to Nairobi, where they met with Abu Ubaydah, who filled them in on details. They were divided into two small teams of trainers to help al-Ittihad al-Islam forces and a larger team of nine trainers to set up a military camp in the Ogaden region. Despite the presence of its military trainers in Somalia for a year and a half, AQ failed to turn Somalia into another Afghanistan or establish a beachhead in that country.

Although AQ's expedition to Somalia was a failure, it later claimed that it was a victory and boasted that it downed the two helicopters in the 3 October 1993 Black Hawk Down incident leading to U.S. withdrawal from Somalia.²⁴⁵ This seems unlikely. AQ trainers were far away, not in the Mogadishu area, and they trained al-Ittihad al-Islam factions, not the people involved in the firefight.²⁴⁶ There were multiple reasons for AQ's failure: Somalia was simply too far from Sudan and too expensive to operate in; the Somali were Sufi and not receptive to AQ's Salafi message; AQ trainers were too elitist and cut off from the locals; and AQ also got caught in the chaos of the Somali civil war.²⁴⁷ The investment of all the senior AQ military leaders in the Somali campaign prevented them from being involved in any other theaters such as Bosnia or

²⁴⁴ Lawrence, ed., 2005, at 54–5.

²⁴⁵ Watts, Shapiro, and Brown, 2007, at 93–4.

²⁴⁶ Hamid, who was a close friend of Abu Hafs, wrote that his friend trained Somali Islamists, not Mohamed Farah Aideed's secular militia, which was involved in the fighting. Abu Hafs and AQ did not participate in the fight. Hamid and Farrall, 2015, at 189–90.

²⁴⁷ Saif al-Islam, 1993, *Al Qaida's Operations in Africa*, Harmony Database AFGP-2002-800621, West Point: Combating Terrorism Center, available at <https://ctc.usma.edu/app/uploads/2013/10/Letters-on-al-Qaida's-Operations-in-Africa-Translation1.pdf>; Saif al-Islam, 1994, *The Ogaden File*, Harmony Database AFGP-2002-600104, West Point: Combating Terrorism Center, available at https://ctc.usma.edu/app/uploads/2013/09/The-Ogaden-File-Operation-Holding-Al-Msk_Translation.pdf. Sayf al-Islam al-Masri was the head of the Jihadwal camp until his departure. See also Watts, Shapiro, and Brown, 2007, at 29–46.

Chechnya.²⁴⁸ AQ's military capacity was simply too small and got all sucked up in that adventure.

Nairobi became AQ's intermediate station between its "Africa Corps" in Somalia and its Khartoum headquarters. Abu Ubaydah was the overall commander of the Africa Corps from Nairobi. Khalid al-Fawwaz set up AQ's office there and started a car business to create cover and some income. Wadih el-Hage created a charity organization that provided AQ members with backstopped documents and a cover for their presence there. Abu Hafs was a frequent visitor. In December 1993, Ali Mohammed, a former Egyptian and U.S. military man and a member of Tanzim al-Jihad who became one of the senior trainers for AQ, conducted surveillance on American and other Western targets in Nairobi for possible retaliation against U.S. involvement in Somalia. Among them was the American Embassy and Mohammed took pictures of it, which he then showed to bin Laden in Khartoum in the presence of Abu Ubaydah and Abu Hafs. Bin Laden pointed to a spot where a truck could go as a suicide bomber. The operation was shelved when the U.S. contingent withdrew from Somalia in March 1994.²⁴⁹ AQ's willingness to carry out such an operation in 1994 showed that it had finally crossed the line into terrorism.

In Khartoum, AQ financially supported two Egyptian terrorist groups, the Islamic Group and the Tanzim al-Jihad, and the Algerian GIA, which during this period carried out terrorist attacks in Cairo, Addis Ababa, Islamabad, Algeria, and France. AQ also linked up with the Lebanese Hezbollah. Ali Mohammed later confessed that he had arranged security for a meeting between bin Laden and Imad Mughniyeh, who had masterminded the truck bomb attacks against the U.S. Embassy and the Marine barracks in Beirut in 1983.²⁵⁰ AQ sent three senior military men, including Sayf al-Islam al-Masri, former head of Jihadwal and one of the Africa Corps' leaders to Lebanon to train with Hezbollah.²⁵¹ This may be how AQ learned about suicide bombing tactics. Hezbollah had initiated them, Hamas used them in Israel a decade later, Tanzim

²⁴⁸ Al-Fadl testified that he learned that AQ supported mujahedin in Chechnya during 1995. Fadl testimony, February 6, 2001, at 301–4.

²⁴⁹ *U.S. v. Ali Mohamed*, S.D.N.Y., S(7) 98 Cr. 1023 (LBS), October 20, 2000, at 27–8, at PEC-WAMY015985–6.

²⁵⁰ *U.S. v. Ali Mohamed*, S.D.N.Y., S(7) 98 Cr. 1023 (LBS), October 20, 2000, at 29, at PEC-WAMY015987.

²⁵¹ Fadl testimony, February 6, 2001, at 290–8.

al-Jihad used a truck bomb suicide operation against the Egyptian Embassy in Islamabad in 1995, and finally AQ used the same tactic in 1998 in East Africa.

c. KSA Sanctions on bin Laden

During AQ's stay in Khartoum, on 26 February 1993, Abdul Basit Abdul Karim (better known as Ramzi Yousef) exploded a truck bomb in the basement of the World Trade Center, New York. He was not connected to AQ but was one of the takfiris left behind on the Afghan Pakistani border. The explosion killed six people and injured more than a thousand others. This attack by Arab Afghan takfiris in the United States jolted the Saudi establishment to crackdown on dissidents, including Osama bin Laden, who had criticized the Saudi government and supported terrorist operations worldwide. Saudi organizations immediately examined their own staffs and projects to make sure they were not directly or indirectly contributing to dissidents or, worse, to terrorists that might embarrass the kingdom.

Prince Turki remembered, in response to bin Laden's continuing criticisms of the royal family, "the Saudi government instructed its ambassador in Khartoum to establish contact with bin Laden and ask him to stop what he was doing. The message was that if he did not stop, legal measures would be taken against him, but if he ceased his activities and came back to Saudi Arabia, all would be forgiven. The bin Laden family likewise sent a stream of members to talk to Osama bin Laden, including several of his half-brothers, an uncle, two sisters and his mother, but he was utterly unyielding... The family's efforts were organized very much in consultation with the government."²⁵²

As bin Laden later told Peter Arnett, the kingdom pressured his family to make him cease and desist from his anti-royal activities. "They have pressured us greatly, especially since a lot of our money is still in the hands of the Saudi ruling family due to the activities of our family and company. They sent my mother, my uncle, and my brothers on almost nine visits to me in Khartoum, asking me to stop and return to Arabia to apologize to King Fahd. I apologized to my family kindly because I know that they were driven by force to come to talk to me. This regime wants to create a problem between me and my family in order to take some measure against them. But, with God's grace, this regime did not get its wish fulfilled. I refused to go back. They

²⁵² Prince Turki, 2021, at 161.

[my family] conveyed the Saudi government's message that if I did not go back, they'll freeze all my assets, deprive me of my citizenship, my passport, and my Saudi ID, and distort my picture in the Saudi and foreign media."²⁵³

His half-brother Tariq remembered one of these trips. "In late 1992 or early 1993, I made a brief trip to the Sudan in an attempt to convince Osama to abandon his criticisms of the Saudi government and return to Saudi Arabia. The entire trip to and from the Sudan lasted only a few hours, and my meeting with Osama thus was short. Osama said that he was happy in the Sudan and did not want to return to Saudi Arabia, as he was focused on building his business in the Sudan."²⁵⁴

As the various visits and pleas from his family were in vain, on 16 June 1993, the head of the bin Laden family, Bakr bin Laden, proceeded to expel Osama as a shareholder of the two major bin Laden companies because of the harm to the family's business caused by Osama's criticism. This process which lasted until the end of the year, deprived Osama of access to any funds derived from his family's business. His share totaled about \$10 million, which was frozen under court supervision and put in a trust for him, if he ever reconciled with the kingdom, or for his heirs.²⁵⁵

Despite the threat to his revenue stream, bin Laden continued to spend lavishly. His poor business decisions further aggravated AQ's financial status. For instance, he wasted a quarter of a million dollars for the purchase of a plane that he used only once. In early 1993, he tasked Wadih el-Hage to ask Essam al-Ridi, an Egyptian American flight instructor in Texas, to buy for about \$250,000 a jet airplane with a range of 2,000 miles able to transport missiles from Peshawar to Khartoum. Al-Ridi found a T-39 aircraft in storage,²⁵⁶ refurbished it for \$230,000, and flew it from Dallas to Khartoum.²⁵⁷ Bin Laden offered al-Ridi \$1,200 per month, the highest

²⁵³ Bin Laden, in Lawrence, ed., 2005, at 55.

²⁵⁴ *In re Terrorist Attacks on September 11, 2001*, S.D.N.Y., 03 MDL 1570 (RCC), Affidavit of Tariq Binladen, January 25, 2006, at 3.

²⁵⁵ *In re Terrorist Attacks on September 11, 2001*, S.D.N.Y., 03 MDL 1570 (RCC), Affidavit of Bakr Binladen, January 25, 2006, at 3.

²⁵⁶ *U.S. v. Usama bin Laden et al.*, S.D.N.Y., S(7) 98 Cr. 1023-LBS, Testimony of Essam al-Ridi, February 14, 2001, (henceforth Ridi testimony), at 564–6. Bergen, 2006, at 130 mistakenly reported that it was a "T389" airplane, which to my knowledge does not exist. Looking further into this mystery, I noted that Gunaratna, 2002, at 37, had made the same mistake.

²⁵⁷ Ridi testimony, at 567.

salary offered by bin Laden, for “flying the airplane, doing the crop dusting and the cargo.”²⁵⁸ Al-Ridi turned him down and returned to the United States. “A few months” later, el-Hage called him to fly the aircraft with five passengers from Khartoum to Nairobi, which he did and immediately returned to the U.S.²⁵⁹ Sometime later, el-Hage called him again to fly the airplane. In his testimony, al-Ridi was not sure of the time, but it happened after November 1993 and el-Hage was living in Nairobi. He believed it must have been a year and a half later.²⁶⁰ The aircraft had been parked for all this time and was in “very terrible condition” from heat and sandstorm damage. Al-Ridi cleaned up the twin turbojets, inflated the tires, and recharged the batteries and hydraulics with the help of the airport staff, which had experience servicing only propeller airplanes. When he turned on the engines, a lot of fire came out burning off the remaining sand. Then he performed a few touch-and-goes before landing. The main brake system failed as did the alternate brake system and the hand brake. He turned off the engines to slow down but could not prevent the aircraft from running out of runway and crashing into a sandpile. Al-Ridi immediately returned to Cairo as he did not want to be known as an associate of bin Laden.²⁶¹ The plane was a total loss resulting in a complete waste of money as bin Laden just used the airplane once.

Other examples of waste of money were his possible gullibility in a scam to buy Uranium for \$1,500,000²⁶² and his attempt to import bicycles from Azerbaijan to Sudan, where no one rode bicycles.²⁶³ The Sudanese business environment was not conducive to recover these losses. Bin Laden’s poor business acumen had previously been offset by injections from his own money to fill in financial needs. Without this cushion now that his money was frozen, his poor business

²⁵⁸ Ridi testimony, at 575. For some reason, Gunaratna, at 37, added, “Al-Ridi was tasked to learn about crop-dusting before returning from the U.S. [sic], a technique that can also be used to disperse chemical or biological agents.” This was not even raised in the testimony. Gunaratna’s carelessness with details and frequent insinuations, as just illustrated, quickly undermined his credibility among counterterrorism scholars.

²⁵⁹ Ridi testimony, at 579–80.

²⁶⁰ Ridi testimony, at 584–5. El-Hage moved to Nairobi when al-Fawwaz moved to London in early spring 1994.

²⁶¹ Ridi testimony, 588–93.

²⁶² Fadl testimony, February 7, 2001, at 360–6. Al-Fadl testified that he was given a \$10,000 bonus for his involvement in this purchase. However, al-Fadl seems to be the only source for this scam, and some of my colleagues are skeptical that it ever happened.

²⁶³ Fadl testimony, February 6, 2001, at 304–5.

judgment especially in the Sudanese environment burned what was left of bin Laden's inheritance from the 1989 distribution of the family holdings. His opposition to the royal family dried up any possibility that Saudi organizations or supporters might overtly bail out AQ's growing deficit because they were strongly influenced by the internal politics of Saudi Arabia.

On 4 February 1994, three assassins went to the mosque where bin Laden prayed and fired indiscriminately into the crowd, killing 16 people and wounding about 20 others. The next day, they drove by and shot at the Wadi al Aqiq office. In the afternoon, they shot up bin Laden's compound, but his guards responded. The firefight resulted in the death of two of the assailants and injuries to the last one as well as some of the AQ guards.²⁶⁴ Apparently, the Sudanese government accused the KSA of being behind the attacks on bin Laden. Although Prince Turki denied this, he speculated that the Sudanese suggestion to "bin Laden that the Saudi government was trying to kill him ... made him more hostile to Saudi Arabia and more dependent on his hosts. We heard from our sources that he was becoming increasingly paranoid.... [A]fter the assassination attempt bin Laden became more radical and more active in promoting revolutionary ideas."²⁶⁵ Bin Laden asked Ali Mohammed, the former Egyptian and American army officer, to investigate the attacks and train his bodyguards. Ali Mohammed found out that the attackers were led by a Libyan who had trained in Lebanon and Peshawar, where he had come under the influence of takfiris.²⁶⁶

Despite the entreaties of his family to tone down his criticism of the royal family, bin Laden escalated and, at the end of 1993, issued a formal statement, widely disseminated by fax, which urged the king to terminate the presence of U.S. troops in the kingdom and reform the government.²⁶⁷ Bin Laden's family led by his half-brother Bakr repudiated him on 20 February 1994: "I myself, and all the members of the family, ... express our strong condemnation and denunciation of all the behavior of Osama, which behavior we do not accept or approve of. As said Osama has been residing outside the Kingdom of Saudi Arabia for more than two years despite our attempts to convince him to return to the right path, we, therefore, consider him to be alone responsible for his statements, actions, and behavior, if truly emanating from him."²⁶⁸

²⁶⁴ Wright, 2006, at 192–3.

²⁶⁵ Prince Turki, 2021, at 162.

²⁶⁶ Wright, 2006, at 193.

²⁶⁷ Prince Turki, 2021, at 160.

²⁶⁸ Bakr Binladen Affidavit, January 25, 2006, Exhibit 3.

Finally, in April 1994, the Saudi King stripped him of his Saudi citizenship.²⁶⁹ Bin Laden complained about this treatment in another widely disseminated fax, on 12 April 1994, “We were prevented from traveling, our money was frozen in foreign bank accounts, a defamation campaign was waged against us in the local and international press, and finally, you attempted to cut our ties with the homeland by confiscating our passports. Your actions indicate to us what your intentions are for us.”²⁷⁰

d. Bin Laden’s Attempt To Coopt the Sahwa Movement

Perhaps because personal grievances might seem too petty for an international audience, bin Laden framed them in a language similar to the *Sahwa* (awakening in Arabic) religious movement in the kingdom, which had acquired more prominence as the Gulf War had exposed Saudi military weakness. Many Saudis were disillusioned over the KSA’s dependence on Western forces. Sahwi preachers like Safar al-Hawali and Salman al-Auda excoriated the government for its weakness, illustrated by the presence of infidel troops in the kingdom, which they attributed to its straying from the true path of Islam. The cassettes of their sermons spread throughout the kingdom despite the authorities’ attempt to limit their preaching to non-political topics.²⁷¹ On 1 May 1990, they sent to the king a Letter of Demands (*Khitab al-Matalib*) signed by more than 400 preachers and activists.²⁷² Among demands for religious and judiciary reform, the letter asked the king to “(7) build a strong and integrated army.... The goal of the army will be to protect the country and its holy places.... (9) build a foreign policy that preserves the interests of the umma, far removed from alliances contrary to God’s law, and that joins in Muslim causes.”²⁷³ The kingdom responded by instituting a set of reforms in March 1992, which essentially tightened state control over dissidents.²⁷⁴ The Sahwi ulema escalated by elaborating

²⁶⁹ Coll, 2008, at 408–9. Lacroix, 2011, at 195, wrote, “On March 5, 1994, finally, King Fahd issued a decree stripping him [bin Laden] of his Saudi citizenship.”

²⁷⁰ Osama bin Laden, 1994–8, *Letters from bin Laden*, Harmony Database AFGP-2002-003345, West Point: Combating Terrorism Center, statements 2, available at <https://ctc.usma.edu/app/uploads/2013/10/Letter-from-Bin-Laden-Translation.pdf>.

²⁷¹ Mamoun Fandy, 1999, *Saudi Arabia and the Politics of Dissent*, New York: Palgrave, at 61–113.

²⁷² Lacroix, 2011, at 178–81.

²⁷³ Lacroix, 2011, at 180.

²⁷⁴ Madawi al-Rasheed, 2010, *A History of Saudi Arabia, Second Edition*, Cambridge: Cambridge University Press, at 166–71.

on their demands in a 120 page Memorandum of Advice (*Mudhakirat al-nasiha*) signed by more than one hundred preachers and submitted to Sheikh bin Baz for endorsement in September 1992, but also published outside the kingdom. The tone of the petition and memorandum were still respectful of the king and the chief mufti and deferential to them. Sheikh bin Baz condemned the publication of the memorandum but not its contents, which called for educating the army with the spirit of jihad and basing foreign policy on the global propagation of Islam, the unity of Muslims, and the need to aid Muslims and support their causes. The authorities cracked down on activists related to the memorandum: some were arrested and interrogated but most were released or allowed to leave the kingdom.²⁷⁵ Bin Laden's fax summarized the history and contents of the Letter of Demands and Memorandum of Advice.

Bin Laden's endorsement of the Sahwa movement is surprising because he had previously not shown any interest in it. When he was still in the kingdom in early 1991, he was solicited to sign the Letter of Demands, but turned it down. According to a source, he had refused to sign the letter because he did not want to aggravate his situation with Saudi officials.²⁷⁶ Like many other Saudi Arab Afghans, he was still focused on re-enacting his Afghan adventures elsewhere. They were disappointed that, at the time of the Kuwait crisis, they were not celebrated as heroes who had defeated communism. They felt alienated and many became marginal people looking for another jihad. They had resented the government's rejection of bin Laden's plan to involve them in the expulsion of Iraqi forces from Kuwait.²⁷⁷

The upsurge in religious opposition in the late 1980s and early 1990s worried the Saudi government, which became concerned about a possible link between returning Saudi Arab Afghans and the Islamist opposition at home. Some of them, who had been radicalized by their war experience in Afghanistan, came back home and "began campaigning for change in Saudi Arabia. They joined a domestic Islamist opposition which emerged openly in 1990 and 1991 for the first time."²⁷⁸ Many of their grievances, especially in foreign affairs and military policies, tracked with the Sahwi preachers' criticisms. However, they lacked the religious credentials to join the movement.

²⁷⁵ Fandy, 1999, at 50–60; Lacroix, 2011, at 185–8; al-Rasheed, 2010, at 164–6.

²⁷⁶ Lacroix, 2011, at 194, and FN 215, at 324.

²⁷⁷ See Fandy, 1999, at 183.

²⁷⁸ Prince Turki, 2021, at 115.

The KSA made it a priority to repatriate and re-integrate the Saudis who were still in Afghanistan in the period from Masoud's capture of Kabul in 1992 to its capture by the Taliban in 1996. According to Prince Turki, there was an estimated maximum of 500 Saudis in Afghanistan at the time. When the KSA re-opened its embassy in Kabul, 54 of its 56 staff officers were GID officers, whose mission was to repatriate the Saudis. About 200 returned. "Most were frightened of returning, either because of their addiction [to opium] or because they held radical political views. In fact, when the fighters returned to Saudi Arabia, they were not imprisoned or charged with any crime. Some, though, were put under surveillance to make sure – or to try to make sure – that they did not get into trouble or get others into trouble. Those civilian camp workers who were known to be radicalized were brought into the Ministry of the Interior for questioning and then advised to go back to their families."²⁷⁹ KSA authorities labeled these Saudi Afghans as *al-fi'a al-dhalla* (the group that has gone astray) and tried to bring them back to the fold.²⁸⁰

A more secular dimension of the Sahwa movement was the formation in Riyadh on 3 May 1993 of an opposition organization, the Committee for the Defense of Legitimate Rights (CDLR, the word legitimate is a translation of the Arabic *Sharia*, meaning legitimate in the context of Islamic tradition). This development further tested Saudi tolerance for religious autonomy and dissent. Unlike many other Middle Eastern regimes, the KSA had no tradition of violent repression of dissent. Instead, it used an escalation of informal tactics to bring dissenters back to the fold. One of its most common tactics was to have family members encourage dissidents to stop their provocative activities, as it did with bin Laden in Khartoum. If that failed, the dissenter might be summoned by a royal family member and told to cease and desist their activities, as it did with bin Laden when he was still in the kingdom. The Ministry of Interior started monitoring sermons and their dissemination by cassettes. If the royal reprimand failed, a preacher would then be temporarily banned from preaching or asked to avoid political topics and the sale of his cassettes would be banned. If that failed, dissident preachers would be suspended or dismissed from their job. As a last resort, the government arrested the noncompliant dissidents. And this is what happened to the CDLR, which was quickly banned by the KSA and

²⁷⁹ Prince Turki, 2021, at 132–4.

²⁸⁰ Madawi al-Rasheed, 2007, *Contesting the Saudi State: Islamic Voices from a New Generation*, Cambridge: Cambridge University Press, at 114.

some of its leaders arrested. Its communiqués stopped, and the organization disappeared for a while.²⁸¹

The growing religious challenge to its rule forced the Saudi government to rethink its approach to religious autonomy. At the time, the government exercised indirect influence on the religious establishment through appointments to its two controlling bodies: the Council of the Committee of Senior Ulema and the General Presidency for the Management of Scientific Research, Fatwas, Preaching, and Guidance. The emergence of the Sahwa showed that their hold on preachers had been too lax, even under the leadership of Sheikh bin Baz, who was generally loyal to the government. To fight off this challenge, the Saudi government made some institutional changes to strengthen its control of rogue preachers. The king took over complete control of all leadership appointments in universities, which were a bastion of the Sahwa. This power of appointment of university presidents, who appointed department chairs, kept potential Sahwi scholars from reaching positions of power in the system. On 10 July 1993, by royal decree, the king created a Ministry of Islamic Affairs, Waqfs, Preaching and Guidance (MoIA) and appointed Sheikh Abdullah al-Turki, the head of Imam Mohammed bin Saud Islamic University who had demonstrated his absolute loyalty to the royal family, as its first minister. The new ministry acquired the departments of preaching and guidance, which had been removed from the General Presidency, headed by Sheikh bin Baz, whose responsibility was reduced to issuing fatwas. With this control of dawah inside and outside the kingdom and the resources associated with this mission, the new ministry was now able to manage and reduce the autonomy of Saudi preachers inside and outside the kingdom. As consolation for his loss of power, Sheikh bin Baz was kicked upstairs by being appointed as grand mufti of the kingdom, a post left vacant for more than two decades since the death of the previous mufti, on the day of the creation of the new ministry. In other words, the MoIA was created as an institutional strategy to hold in check and to ensure the loyalty of militant preachers, who might challenge the royal family's power over the kingdom such as the Sahwi preachers and their neojihadi allies.²⁸²

At the same time, the government encouraged the religious reaction to the Sahwa, led by Sheikh Rabi al-Madkhali, who argued that the priority in terms of dawah was the purification of the creed instead of adventuring into politics. Such diversion into politics turned preachers away

²⁸¹ Lacroix, 2011, at 202–7.

²⁸² See Lacroix, 2011, at 207–11.

from their true calling, namely research into Islamic knowledge. Furthermore, Sahwi dissent led to factionalism, or fitna, which went against the principle of unity inherent in Salafi Islam. Instead, Sheikh al-Madkhali preached loyalty to rulers and especially the Saudi royal family. The government signaled its approval of his allies and followers by appointing them to the positions vacated by dismissed Sahwi sheikhs. This reaction to the Sahwa movement weakened it and eventually replaced it in Saudi society.²⁸³

From Khartoum, bin Laden attempted to revive the banned CDLR by issuing a fax under the name of the Commission for Advice and the Defense of Legitimate Rights (CADLR),²⁸⁴ which endorsed the goals of the disappeared CDLR.²⁸⁵ However, two of the CDLR leaders managed to leave the kingdom for London, where they resumed their publication of communiqués on 20 April 1994. London was the center of Arab media, which broadcast their messages that reached not only the various Arab language newspapers, magazines, and broadcast companies in the British capital, but also their audience in the kingdom, where they hoped to create a public opinion using fax machines.²⁸⁶

In his next communiqué from Khartoum on 7 June 1994, bin Laden changed the name of his office to the Advice and Reform Committee (ARC) so as not to confuse it with the resurrected CDLR. He kept up his criticism of King Fahd as “known for his anti-Islamic policies” especially with respect to Yemen, support for the Soviet Union prior to its collapse, support for Algerian and Syrian dictators and the “crusaders in the south of the Sudan.” Bin Laden condemned “this betrayal and the conspiracy against Islam and its people by the Saudi government.”²⁸⁷ He decided to duplicate the CDLR success and improve his media exposure by dispatching Khaled al-Fawwaz to London, where he opened an ARC office on 8 August 1994.²⁸⁸ It became AQ’s semiofficial news agency and collaborated closely with the CDLR.²⁸⁹ As the kingdom kept persecuting the Sahwi preachers, the CDLR tried to mobilize the Sahwa supporters into a mass demonstration showing their strength in the kingdom. On 10 September, it reported

²⁸³ Lacroix, 2011, at 211–21.

²⁸⁴ Lacroix, 2011, at 195. Bin Laden, 1994–8, statement 2 is derived from a later statement (7) when the CADLR had changed its name to ARC.

²⁸⁵ Bin Laden, 1994–8, statement 2, April 12, 1994.

²⁸⁶ Fandy, 1999, at 115–75; Lacroix, 2011, 189–92; al-Rasheed, 2010, at 171–4.

²⁸⁷ Bin Laden, 1994–8, statement 3, June 7, 1994.

²⁸⁸ Bin Laden, 2004, at 3.

²⁸⁹ Fandy, 1999, at 126–9, 181.

that Sheikh al-Hawali was arrested (although immediately released) and urged followers to go to Sheikh al-Auda's mosque to prevent his capture. The appeal was faxed to thousands of people in the kingdom. On 11 September, Sheikh al-Auda galvanized his followers with a sermon denouncing the corruption of the government. The next day, a very large police force came to the mosque and persuaded Sheikh al-Auda to come to the governor's office, where he was asked to sign a promise to cease all activities. The sheikh refused but was let go. On 13 September at dawn, the police arrested him. About 500 to 1,000 of his followers marched to the governor's office to demand his release. The vice-governor promised them he would do what he could, but Sheikh al-Auda remained behind bars and most of the leaders of the march were also arrested. The CDLR tried to organize a demonstration in Riyadh the next day, but only 50 supporters showed up and were arrested. Sheikh al-Hawali was arrested on 16 September. In other words, the Sahwa attempted insurrection failed.²⁹⁰

Bin Laden joined the CDLR in protest by sending a flurry of faxes to his followers. On 13 September, he declared these arrests an "evil crime" and a "war against Islam and its scholars." He urged Saudi officials to disobey their superiors.²⁹¹ Three days later, he accused the Saudi rulers of being tyrants and urged the people to remove tyranny and free the imprisoned sheikhs.²⁹² Another three days later, he faxed people in the armed forces a message telling them "that the regime has lost its legitimacy for the following reasons: firstly, because of its friendliness and help to the enemies of the religion. Secondly, because of its hostility to the feelings of the people at a time, in which experts on the conditions of nations and facts of history agree, that the regime's end and collapse are near. Tomorrow the regime will fall. It is a just a matter of time."²⁹³

In October 1994, the royal family further consolidated its control over Islamic affairs by creating a High Council of Islamic Affairs, presided by Defense Minister Prince Sultan and Interior Minister Prince Nayef and included several other senior princes among its members.²⁹⁴ Bin Laden immediately railed against this new "Higher Committee for Harm." "Its mission is the

²⁹⁰ Lacroix, 2011, at 232–4.

²⁹¹ Bin Laden, 1994–8, statement 6, September 12, 1994.

²⁹² Bin Laden, 1994–8, statement 7, September 16, 1994. Sheikhs al-Auda and al-Hawali were released from prison on 25 June 1999; see Lacroix, 2011, at 240.

²⁹³ Bin Laden, 1994–8, statement 8, September 19, 1994.

²⁹⁴ Lacroix, 2011, at 209.

destruction of true Islam and its Dawah, support for the religion of the king, and preparation for the history of the two black men filled with a malice for Islam and a hatred of its preachers and shaykhs.” He further accused the government of creating this committee to usurp the legitimate power of Sheikh bin Baz.²⁹⁵

For bin Laden, the government’s crackdown on the Sahwi preachers was another crucial step in his complete rejection of the Saudi government. As his communiqués showed, he still did not denounce the octogenarian Chief Mufti Sheikh bin Baz, who had been the head of the Council of Ulema for most of bin Laden’s life. Bin Laden was framing his grievances against the Saudi royal family in Islamic justifications but did not have the religious credential to take on the universally respected sheikh in Salafi circles. This changed on 29 December 1994, when bin Laden criticized Sheikh bin Baz on political grounds in an open letter rejecting the sheikh’s endorsement of the Oslo Accords between Israel and the Palestinian Liberation Organization.²⁹⁶

Throughout the letter, bin Laden greeted the sheikh with great respect and deference, “Peace be upon you, and God’s mercy and blessings,” and referred to him as “honorable sheikh.” However, he pegged his letter to a well-known Hadith, “The best jihad against a despotic sultan is the word of truth.” He argued that the duty of men of knowledge was to protect the legacy of the Prophet from the corruption of fanaticism, lies, ignorance, and oppression. He reminded the sheikh of his “duty to your religion and to our umma, and to give your attention back to your enormous responsibility.” Instead, the sheikh was silent when “preachers have been imprisoned and reformists silenced.” In addition, Sheikh bin Baz kept silent when there was “tremendous spread of corruption” over the kingdom; the king called crusaders to defend the country; an “aggressive Crusader-Jewish alliance” occupied the country; the government helped and supported apostate “Communist Socialists” in Yemen; and “[w]hen the regime decided to attack Sheikhs Salman al-Auda and Safar al-Hawali, who had stood up for the truth and suffered much harm, you issued a judicial decree condoning everything suffered by the two sheikhs, as well as justifying the attacks and punishments suffered by the preachers, sheikhs, and youth of our umma who were with them.” Finally, Sheikh bin Baz conferred “legitimacy on the contracts of

²⁹⁵ Bin Laden, 1994–8, statement 10, October 15, 1994.

²⁹⁶ Bin Laden, 1994–8, statement 11, December 29, 1994; bin Laden, in Lawrence, ed., 2005, at 4–14. Most of the quotes in the text are from the more elegant Lawrence translation. Bin Laden’s choice of the Oslo Accords to criticize Sheikh bin Baz played on the great popularity of the Palestinian cause among Muslims.

surrender to the Jews that were signed by the traitorous and cowardly Arab tyrants.” Instead, bin Laden suggests that the “current Jewish enemy is ... an attacking enemy and a corrupter of religion and the world.... The legal duty regarding Palestine ... is to wage jihad for the sake of God, and to motivate our umma to jihad so that Palestine may be completely liberated and returned to Islamic sovereignty.” Therefore, “[t]his juridical decree of yours was deceitful, as it contained shamefully misleading generalizations ... this fake peace with the Jews ... is a huge betrayal of Islam and Muslims.” Bin Laden attributed the sheikh’s error not on a lack of knowledge of Islam (as bin Laden deferred to the sheikh’s deep erudition) but to a “lack of understanding of the truth of reality” and asked the sheikh, who had “reached a good age” and “achieved so much in the service of Islam,” to distance himself from tyrants and oppressors. Bin Laden concluded, “He who is unable to proclaim the truth can at least refuse to proclaim what is not true.”

Bin Laden continued his campaign of protests against the persecution of Sahwi preachers over the next few months. A month after his open letter, he essentially repeated and elaborated on his political points in response to another fatwa by Sheikh bin Baz on 20 January 1995, confirming his endorsement of the Oslo Accords.²⁹⁷ He protested each new waves of arrests with another fax.²⁹⁸ I suspect that he was trying to appropriate the Sahwa religious movement to recruit among its supporters as very few people from the Gulf were coming to Khartoum to join AQ during this time. As far as I could detect, this strategy failed.²⁹⁹

e. KSA Interdiction of bin Laden’s Fundraising

Zakat, a form of obligatory charity, is one of the five pillars of Islam. It peaks during the holy month of Ramadan. Jihad is a legitimate recipient of zakat and receipt of donations for jihad is periodical and peaks during Ramadan. I suspect that bin Laden hoped that Ramadan (31 January – 1 March 1995) would bring him a critically needed infusion of cash to alleviate AQ’s financial woes. In fact, all expectations of zakat in 1995 were that it would be generous as the Saudi economic situation had relatively improved.³⁰⁰ Apparently, the Saudi government’s

²⁹⁷ Bin Laden, 1994–8, statement 12, January 29, 1995.

²⁹⁸ See bin Laden 1994–8, statements 14 and 15, March 9 and May 6, 1995, respectively.

²⁹⁹ See Lacroix, 2011, *passim*.

³⁰⁰ Lacroix, 2011, at 235–6.

clamping down on the money flow that might have gone to bin Laden and AQ worked as was clear from a new set of bin Laden's complaints.

On 12 February 1995, bin Laden published a fax complaining that the "Saudi regime" was interfering with the sacred duty of zakat, preventing funds from reaching deserving Muslims, and presumably AQ. According to him, the government had instituted a blockade, part of which "was dissolving charitable organizations that used to deliver donations from citizens to the many needy people inside and outside the country. It replaced them with organizations and foundations subservient to royal family members and particularly, Prince Salman." A fatwa by Sheikh bin Baz legitimized this new arrangement. Bin Laden linked this new policy preventing these funds "from being delivered to areas where they could be used to serve Islam and Muslims" to "the U.S. president's decision to freeze Islamic foundations' assets that oppose the 'peace' plan in the Middle East. There procedures are part of the joint policy of both countries to freeze support resources intended for Islam, Muslims, freedom fighters and others." Bin Laden concluded, "we, ... while celebrating this blessed month as a month of giving for Allah's sake, wish to draw the attention of all donors to the danger of donating funds or zakat to these foundations and organizations. The regime is using them against Allah and his Messenger. We are asking the donors to provide these funds directly to the needy, whether inside or outside the country. They could also provide it to those trusted individuals who will deliver them (TN: to trusted people). This way, hearts will be assured that these donations are delivered to legitimate needy people, without having abusers from the al-Saud (family) meddle with it. Allah says, 'Allah orders you to give consignment to his people.' It is known that these leaders cannot be trusted. There are other safe ways you that [you?] can assist in delivering funds to those who deserve them. Among them are, Benevolence Foundations in Qatar, Kuwait, Jordan, Yemen, Sudan, and others. To assure that the funds transfer to these foundations' bank accounts, we draw your attention to the importance of transferring these funds outside the peninsula, away of the pursuing regime's spies."³⁰¹

A few months later, bin Laden again addressed the government's control of Saudi charity money with respect to Bosnia. This was just after the July 1995 Srebrenica Massacre and seems to imply that the KSA was partly complicit in it by allowing the United Nations to take the lead

³⁰¹ Bin Laden, 1994–8, statement 13, February 12, 1995.

and letting the Bosnian Muslims to their fate. He accused the KSA of closing “charitable organizations that delivered the contributions of the benefactors from this country to its deserving lawful owners. The government has replaced these charitable organizations with associations and organizations that were supervised by members of the royal family, such as Prince Sultan and Prince Salman. This revealed a scheme by which they monopolized the charitable contributions in such a way that it prevented Islam and the Muslims from benefiting from them.” “How can this regime bring victory to Islam when it is apostate?” Specifically, bin Laden accused the KSA of preventing the effective purchase of arms for the mujahedin in Bosnia, arresting volunteers who had gone there upon their return home; and diverting Saudi humanitarian contributions to Christian organizations for distribution. “We are drawing their attention to the risk of forwarding those contributions through the ruling regime and its organizations. We are advising them to deliver their contributions directly to the people or through safe hands of individuals, organizations, and societies that are trusted, such as the charitable societies in Qatar, Kuwait, Sudan, Yemen, and Jordan. We are advising them to be careful that their contributions stay far from the pursuit of the servant of the two holy mosques and his agents, and to make sure that the money will reach the people it is intended for. They must be sure that the money does not fall into the hands of the shameless members of the Saudi family.”³⁰²

Bin Laden’s and AQ’s cash flow crisis starting at the end of 1994 probably prevented AQ from participating in the jihad in Bosnia and Chechnya in 1994–6 for lack of funds. The crisis also undermined the solidarity predicated on financial security. On a personal level, one of his wives divorced him and returned to live in Saudi Arabia. His eldest son, Abdullah, abandoned him as well to live in the same comfort as his cousins in the kingdom.³⁰³ AQ’s head of finance, Madani al-Tayeb (Abu Fadl al-Makki), who was married to one of bin Laden’s cousins, defected back to the kingdom as well.³⁰⁴ Al-Yazid (Sheikh Saeed) replaced him. Strapped for cash, al-Fadl, who was on AQ’s financial committee’s staff, embezzled \$110,000, which eventually

³⁰² Bin Laden, 1994–8, statement 18, August 3, 1995.

³⁰³ Coll, 2008, at 414–5.

³⁰⁴ *U.S. v. Usama bin Laden et al.*, S.D.N.Y., S(7) 98 Cr. 1023-LBS, February 15, 2001, at 840–3; Wright, 2006, at 199.

forced him to betray AQ.³⁰⁵ When L'Houssaine Kherchtou, who went to flight school in Nairobi in 1993–4 at AQ's expense to become bin Laden's pilot, returned to Khartoum, bin Laden told him that he lost all his money and there was none left. He reduced people's salary and could not pay for Kherchtou's return to Nairobi to renew his pilot's license. Later in December 1995, when Kherchtou's wife needed \$500 to deliver their baby via a Caesarian section, Sheikh Saeed, AQ's new head of finance, told him that there simply was no money left. Kherchtou had to borrow the money elsewhere. When AQ moved back to Afghanistan, Kherchtou left the organization.³⁰⁶

In a paradoxical way, the withdrawal of Saudi funds to bin Laden freed him from the constraints imposed by his dependence on them. Before, his dependence on his family money and charitable contributions was a check on bin Laden's path to political violence. Now that he was completely abandoned by his family and his country, he was free from any constraint.

f. Escalation of the Conflict Between AQ and the KSA

As the KSA stopped any funding flow to him, bin Laden increased his political criticism of the king, culminating in his “open message to King Fahd” on 3 August 1995. He started by accusing the king of not ruling by the laws of Allah especially in trade relations and banking and ignoring the Memorandum of Advice. In terms of foreign policy, he accused the government of bowing to Western and especially American interests and supporting not Islamic causes but Afghan and Yemeni communists, and the Syrian, Lebanese, and Algerian regimes that slaughtered Muslims. In terms of the Saudi economy, he accused the king of inheriting a solid and healthy economy and squandering it through vast spending and corruption. Specifically, he accused King Fahd of keeping oil prices down in subordination to the West; making no effort to find alternative sources of revenue; spending too much in the Gulf war (“western countries, the coalition forces found an opportune time to fleece you by taking advantage of your fear and cowardice”); depleting the nation's financial reserve; and borrowing huge amounts from banks with enormous interest payments. In terms of defense, he accused the king of wasting about a third of the kingdom's budget on a military that is completely ineffective. All this spending

³⁰⁵ Fadl testimony, February 7, 2001, at 383–92. He claimed that he paid back about \$30,000 when he was discovered.

³⁰⁶ *U.S. v. Usama bin Laden et al.*, S.D.N.Y., S(7) 98 Cr. 1023-LBS, Testimony of L'Houssaine Khechtou (henceforth Kherchtou testimony), February 22, 2001, at 1283–8.

generated commissions and bribes that just enriched influential princes. Bin Laden concluded, “Oh King, we have proven above that your regime has committed sins against Islam that negate its guardianship in the eyes of Allah.” These sins were corruption, infidel laws, and support and subordination to the infidels. “Its repulsive corruption and ugly failure in the areas of defense, economics, and others has proven the king’s inability to run the nation, even if he had not sinned against Islam and been rejected by the religion.” “If the ruler apostatizes, then the whole nation must go against him.” In view of all these sins and failures, bin Laden demanded the king’s resignation. “We see that you have advanced in age and ... that you are sick. Crisis has surrounded you from the inside and the outside. For you own personal welfare, oh King, and for the welfare of your family and those around you, we ask that you spare the nation, your country, and the citizens. Spare them the trouble and the crisis and the tribulations. We ask that you tender your resignation.”³⁰⁷

On 12 August, the Saudi Interior Minister escalated the conflict with dissident Islamists when it announced that it had executed Abdallah al-Hudhayf, an Arab Afghan who had believed that the Saudi police were torturing Islamists and had thrown sulfuric acid at a policeman’s face. Since the disfigured policeman survived, the imposition of the death penalty seemed excessively severe to his friends. His execution made him a martyr and outraged his friends, who swore revenge. On 13 November 1995, a truck bomb blew up the Saudi Arabian National Guard (SANG) office in Riyadh, killing seven people, including five Americans, and wounding 34 more. This was the first large scale bombing in the country’s history and triggered a large-scale crackdown on Afghan and Bosnian veterans in the kingdom. Four friends of al-Hudhayf confessed under torture to carrying out the bombing and having been inspired by bin Laden’s faxes. They were executed on 31 May 1996.³⁰⁸ The SANG bombing and the quick executions of the alleged perpetrators consummated the final break between bin Laden and the royal family. In the next three years, the Saudi government carried out three more waves of large-scale arrests (totaling more than 3,000 people) of dissidents and especially Afghan and Bosnia veterans.³⁰⁹

³⁰⁷ Bin Laden, 1994–8, statement 17, August 3, 1995.

³⁰⁸ Wright, 2006, at 210–1; Coll, 2008, at 432; Hegghammer, 2010, at 70–3; Lacroix, 2011, at 206–7. No evidence ever surfaced that the perpetrators were linked to bin Laden or AQ.

Although the majority of Sahwis celebrated al-Hudhayf as a martyr, they never granted this status to the four bombers because they rejected and condemned the bombings.

³⁰⁹ Hegghammer, 2010, at 74.

On 9 November 1995, King Fahd suffered a massive stroke, partially incapacitating him for the next ten years until his death. As a result, Crown Prince Abdullah, Interior Minister Prince Nayef, Defense Minister Prince Sultan, and Governor of Riyadh Prince Salman acquired more responsibilities in running the affairs of the kingdom.³¹⁰

g. The Expulsion from Sudan

By 1995, terrorism had climbed to the top of the U.S. national security agenda. The Japanese cult Aum Shinrikyo had carried out a Sarin attack on the Tokyo metro in March 1995. The discovery of a plot to blow up a dozen airliners over the Pacific surprised the administration. The devastation of the April Oklahoma City bombing woke up U.S. officials to the possibility of a large-scale terrorist attack on American soil. The World Trade Center bombing two years before was still on everyone's mind. On June 21, 1995, President Clinton signed Presidential Decision Directive PDD-39 on counterterrorism directing the CIA to use all means necessary to bring terrorist suspects back to the United States to face justice in U.S. courts.³¹¹

On June 27, 1995, the Islamic Group carried out an attempt on Egyptian President Hosni Mubarak in Addis Ababa. Six days after the SANG bombing in Riyadh, the Tanzim al-Jihad bombed the Egyptian Embassy in Islamabad. The two Egyptian groups were headquartered in Sudan, which, bowing to international pressure, expelled them from the country, severing the close ties between al Qaeda and Tanzim al-Jihad. Although there did not seem to be any coordination between these terrorist attacks, bin Laden was seen as their financier. U.S. government officials saw bin Laden as the Ford Foundation of terrorism: aspiring terrorists approached him with proposals, and he would fund the worthy projects. In January 1996, the CIA established Alec Station to track exclusively Osama bin Laden and his subordinates. As U.S. Embassy staff in Khartoum felt harassed by people connected with bin Laden, the White House decided to close its embassy there and pulled its personnel out in February 1996. The U.S. ambassador serviced the country with trips from abroad.³¹²

³¹⁰ Coll, 2008, at 434–5.

³¹¹ Daniel Benjamin and Steven Simon, 2002, *The Age of Sacred Terror*, New York: Random House, at 228–33. The authors were members of the National Security Council at the time; Coll, 2004, at 318.

³¹² Benjamin and Simon, 2002, at 243–5; Coll, 2004, at 319–22.

A few weeks later at the U.N., the United States presented evidence of Sudanese official involvement in the Addis Ababa attack as well as another attempt on the Egyptian president in New York. Sanctions were imposed on Sudan. In response, the Sudanese government sent a senior defense ministry official to Washington in March to negotiate an improvement in U.S. Sudanese relationship and better cooperation on counterterrorism. He suggested expelling bin Laden to re-establish normal relationship with the United States. On March 8, the CIA presented him with a list of requests about information on terrorists, including bin Laden.³¹³ In a later meeting, the Sudanese official said that Sudan was ready to expel bin Laden. The U.S. National Security Council explored whether the United States might take him into custody, but the Department of Justice had not yet any ground to indict him and declined to ask for his extradition.³¹⁴ The KSA was raised as an option to where bin Laden could be sent.

During hajj, which started on 18 April in 1996 and lasted for five days, Sudanese President Omar al-Bashir met and discussed the fate of bin Laden with Crown Prince Abdullah. There are two versions of the discussion at this meeting. According to Prince Turki, “He [Bashir] explained that he would be willing to hand over bin Laden, but when Prince Abdullah asked, ‘When?’, referring to the fact that the diplomatic exchanges had already gone on for quite some time, Bashir said that he first wanted an assurance that bin Laden would not be prosecuted. Such a guarantee was completely out of the question, given that bin Laden had been encouraging and financing terrorist activities and trying openly to subvert the Saudi government, and Prince Abdullah explained this. His concluding words to the Sudanese President were, ‘Nobody can be

³¹³ See “1996 CIA Memo to Sudanese Official,” *Washington Post*, October 3, 2001, available at https://www.washingtonpost.com/wp-srv/nation/specials/attacked/transcripts/sudanmemotext_100301.html.

³¹⁴ Benjamin and Simon, 2002, at 247; Coll, 2004, at 323. Although the NSC explored whether the U.S. could take custody of bin Laden, NSC staffers insisted that it was not offered custody of bin Laden by Sudan and that it did not decline it, as the Sudanese official later alleged (Wright, 2006, at 220 and FN 220, at 414). See Benjamin and Simon, 2002, FN 19, at 462–4; Richard Clarke, 2004, at 142; and *9/11 Commission Report*, at 110. At the time, bin Laden was viewed as a financier of terrorism, and the legislation covering material support for terrorism, the Antiterrorism and Effective Death Penalty Act, was signed into law on April 26, 1996, a month after the negotiations with the Sudanese official. So, at the time, the U.S. government did not yet have the legal ground to indict bin Laden since he had not been assessed as directly participating in a terrorist act.

above the law.’ This brought their meeting to an end.”³¹⁵ A Sudanese remembered the conversation differently, “[Crown Prince] Abdullah and Prince Turki both announced that Saudi Arabia was not interested in accepting bin Laden for trial. Bashir did ask Abdullah ... to pardon bin Laden for his provocative political writings. But Sudan never insisted on a Saudi promise to forego prosecution... The Saudi attitude at Mecca ... was ‘He is no more a Saudi citizen. We don’t care where he goes, but if he stays [in Sudan], he may be a nuisance in our relations.’”³¹⁶

The National Security Council did not take the possibility of expelling bin Laden to the KSA as serious. “The Saudi option was a calculated nonstarter. Riyadh had stripped bin Laden of his citizenship in 1994 for a reason. It would do everything it could to keep him out of the kingdom, where he would have become a magnet for opponents of the monarchy. As the scion of one of Saudi Arabia’s wealthiest clans, bin Laden was untouchable. U.S. officials approached the Saudis but were turned down cold: by the unwritten rules of life in Saudi Arabia, bin Laden was no more likely to be thrown in jail than he was to be declared the Mahdi by King Fahd. The Sudanese undoubtedly knew this.”³¹⁷

Bin Laden’s own understanding of the forces behind his expulsion was, “Statements were issued from the Sudan, and when the Saudi Government discovered the great impact and effect of these statements, it transcended all its disagreements with the Sudanese regime, which had exerted great efforts to rectify its relations with the Riyadh Government and to end the boycott but encountered a lack of response and arrogance. After Statement 17 was issued – it was an open letter to the king on the occasion of the cabinet reshuffle – the Saudi Government contacted the Sudanese Government at the highest level, requesting reconciliation on the condition that Usama Bin Ladin and the sons of the two holly mosques accompanying him in Sudan were expelled and that they stopped issuing statements... The Sudanese Government at the highest level informed me of its difficult position and the scale of the Saudi pressure. They asked me to stop issuing statements. On the day I was told to stop issuing statements I sought to find an

³¹⁵ Prince Turki, 2021, at 163–4. See also Al-Faisal, 2002, at FED-PEC0052584. Prince Turki provided the same story to Jamal Khashoggi, 2001, “Former Saudi Intel Chief Interview on Saudi-Afghan Ties, Bin Laden – Part 5,” *Arab News*, November 8, 2001, quoted in Bergen, 2006, at 156. All these accounts are traced back to Prince Turki and are mutually consistent.

³¹⁶ Coll, 2004, at 324. Steve Coll provided both versions in his book.

³¹⁷ Benjamin and Simon, 2002, at 246.

alternative land capable of bearing the word of truth, so God helped me, and we came to the land of Khorasan once again.”³¹⁸

In any case, Sudanese officials told bin Laden he had to go. The Sudanese government had paid him in land and factories for his investments in Sudanese infrastructure. On his way out, bin Laden was forced to sell them at a small fraction of their worth. He lost most of his money in this fire sale, which probably amounted to about \$10–15 million or just about all the money left at his disposal.³¹⁹ He reached out to friends in Afghanistan who welcomed him. He invited only a few al Qaeda members to return with him to that country. Many, including Mamdouh Salim, decided not to follow him and were each given \$2,400 and a plane ticket home.³²⁰ The Sudanese government chartered two planes from Ariana Airlines for bin Laden, and he flew to Afghanistan with his family and about 50 followers on 18 May 1996.³²¹ Three days later, Abu Ubaydah drowned in a ferry that sank on Lake Victoria, killing more than 600 people.³²²

Bin Laden left Sudan nearly destitute. As the 9/11 Commission staff concluded, “When bin Laden was pressured to leave Sudan in 1996, the Sudanese government apparently expropriated his assets and seized his accounts, so that he left Sudan with practically nothing. When bin Laden moved to Afghanistan in 1996, his financial situation was dire; it took months for him to get back on his feet.”³²³ From \$29 million that he had invested in Sudan, bin Laden left with just \$1.1 million³²⁴ to run an organization of several dozen people and more than a

³¹⁸ Atwan, 1996, in bin Laden, 2004, at 31.

³¹⁹ This is far off from the rumor mill at the time, reflected in Atwan, 2006, at 52. Atwan claims that bin Laden told him that the Saudi government had frozen his assets of \$200–300 million and that he had lost \$165 million in Sudanese projects. According to Coll, 2008, at 492–5, the CIA and the U.S. government in general had uncritically accepted this inflated figure of \$300 million as the amount of bin Laden’s wealth based on no solid information.

³²⁰ Kherchtou testimony, February 22, 2001, at 1286.

³²¹ Wright, 2006, at 222–3; Hamid and Farrall, 2015, at 207–11.

³²² *U.S. v. Usama bin Laden et al.*, S.D.N.Y., S(7) 98 Cr. 1023-LBS, February 14, 2001, at 628.

³²³ Roth, Greenburg, and Wille, 2004, at 20. See also *9/11 Commission Report*, at 170 (FN 114, at 506, based on several NSC memos). These conclusions are based on extensive investigations by the FBI, the CIA, the Financial Crimes Enforcement Network (FinCEN), the interrogations of plot participants, and the Commission staff investigations.

³²⁴ See the document found in the 2011 Abbottabad raid, often referred to as bin Laden’s will, but more formally titled, “In Regard to the Money that is in Sudan,” available at <https://www.dni.gov/files/documents/ubl2016/english/In%20regard%20to%20the%20money%20that%20is%20in%20Sudan.pdf>. There is no date on this document.

hundred dependents. AQ underwent a second large contraction, like the previous one after the disaster of Jalalabad, and had to rebuild from the ground up.

The Sudanese phase of al Qaeda is crucial and often neglected by scholars. AQ became a full-fledged terrorist organization during that period.³²⁵ Ironically, as Western intelligence agencies started to view bin Laden as the financier of terrorism, he stopped being so because of his own financial woes and became a true terrorist. All the restraints on bin Laden from Saudi influence and especially in terms of fundraising in the kingdom disappeared as bin Laden broke with the royal family and joined Saudi dissidents. His relationship with the KSA had escalated from dissidence to belligerence.

C. Hostility between the KSA and AQ

a. Return to Afghanistan: AQ's Shift in Focus and Propaganda Campaign

The return to Afghanistan marked the low point in bin Laden's life and AQ. On a personal level, he had lost one of his wives and his eldest son, Abdullah, who had tired of the fugitive life, and was prevented from withdrawing from his inheritance. In terms of AQ, he had lost some of his closest lieutenants, like Salim (Abu Hajer) and Abu Ubaydah, and many of his followers, whose number had dwindled to about 50. It had been years since his organization had been able to attract new recruits. International Islamist militants had preferred new fields of jihad like Bosnia and Chechnya instead of joining what seemed to be an internal dispute between bin Laden and the Saudi royal family. More national Islamist militants focused on their own countries, like Egypt, Algeria, the Philippines, and Kashmir. AQ was on the edge of bankruptcy, and bin Laden had to borrow money from Pakistani ulema to feed and house his followers and their families.³²⁶ Clearly bin Laden needed to reevaluate his strategy to raise money and attract new recruits.

³²⁵ This transformation of AQ into a full-fledged terrorist organization during its Sudanese phase is supported by a CIA report key finding, "While based in Sudan from 1992-96, al-Qa'ida was transformed from an only partially realized idea to an international organization ready to operate on its own." Central Intelligence Agency, *Al-Qa'ida in Sudan, 1992-96: Old School Ties Lead Down Dangerous Paths*, March 18, 2003, CIA_000038-52, at CIA_000039.

³²⁶ Hamid and Farrall, 2015, at 207-13.

Bin Laden's two-year campaign of flooding Saudi Arabia with faxes from London had failed to raise funds and attract new members. Even in the KSA, he was losing relevance, as takfiris seemed to have grabbed the initiative with their bombing of the SANG building in Riyadh. He lacked the religious credentials to assume a leadership role in the Sahwa. The level of violence inside the kingdom reached new heights with the recent 25 June 1996 Khobar Towers bombing, which killed 19 U.S. airmen and injured about 500 others.³²⁷ He had not been involved with either bombing, even though some of the takfiris in the first bombing had claimed that they had been influenced by his faxes.

Bin Laden discussed with his lieutenants in Jalalabad what he could do to regroup the Islamists under his leadership. The idea emerged to rally the militants around the fight against outsiders, like the United States and Israel. He therefore shifted his targeting from the KSA to the United States and Israel and launched a new propaganda campaign with this theme.³²⁸ The shift was visible in the interview that he gave to journalist Robert Fisk in early July 1996.³²⁹ Bin Laden later justified this switch to journalist Peter Arnett, "our main problem is the US government, while the Saudi regime is but a branch or an agent of the US."³³⁰ Bin Laden was convinced that the United States was a paper tiger, as it had withdrawn at the slightest attack against them in Beirut in 1983, Aden in 1992, and Mogadishu in 1993. He believed that two or three more blows against U.S. forces in Saudi Arabia would force them to withdraw.

The shift of focus to the United States and Israel in his propaganda campaign and his emphasis on the suffering of Palestinians (probably because this issue was so popular in the Muslim world) did not mean that bin Laden had changed his mind about the Saudi government. He simply toned down his criticisms of the Saudi family for strategic reasons, but they were still present in his interviews to the irritation of the royal family. His continued hatred of the Saudi

³²⁷ It turned out that this bombing was carried out by the Arabian Hezbollah, a shi'a group, not a Sunni Islamist militant group like al Qaeda.

³²⁸ Hamid and Farrall, 2015, at 207–17.

³²⁹ Robert Fisk, 1996a, "Why we reject the West – by the Saudis' fiercest Arab critic," *The Independent*, July 10, 1996, at 14; and his accompanying article, Robert Fisk, 1996b, "Arab rebel leader warns the British: 'Get out of the Gulf'," *The Independent*, July 10, 1996, at 1.

³³⁰ Quoted in Lawrence, ed., 2005, at 45.

royals can be clearly seen in his long diatribe against “the rulers in Riyadh” posted eight years later.³³¹

Bin Laden ushered his media campaign by issuing a “Declaration of Jihad Against the Americans Occupying the Land of the Two Holy Mosques,” faxed on 23 August 1996 to a London Arabic newspaper.³³² He began with the famous hadith, “Expel the Polytheists from the Arabian Peninsula.” He went on to list Muslim massacres in Palestine, Iraq, Lebanon, Tajikistan, Burma, Kashmir, Assam, the Philippines, Fatani, Ogaden, Somalia, Eritrea, Chechnya, and Bosnia, which, he stated, were committed in accordance with a conspiracy by the United States under the cover of the United Nations. “Muslims ... are the main target of the Jewish-crusade alliance aggression.” Worse was the occupation of the land of the two holy mosques by the Christian armies of the Americans and their allies.³³³ He then went over much of the same material as his open letter to King Fahd, but he never mentioned the king’s name. Instead, he blamed his two full brothers, Prince Sultan and Prince Nayef. “Instead of pushing the Army, the Guard, and the security men to confront the occupiers, the regime is using them to protect the occupiers, which is the highest degree of humiliation, insult, and treason.”³³⁴ He pled with Muslims not to fight among themselves as it would lead to destruction to the benefit of the American occupation forces. Nevertheless, some Muslims had fought back. He cited the bombing of Riyadh and the recent one of al-Khobar and the U.S. defeats in Beirut, Aden, and Mogadishu. “What your mujahidin brothers and sons want from you at this stage is to provide every possible support: information and the materials and arms needed for their work. And they want the security men – in particular – to turn a blind eye and deceive the enemy about their whereabouts, spread false rumors among its ranks, and do whatever is viable to help the mujahedin against the occupying enemy.... While we know that the regime is fully responsible

³³¹ Reproduced in its entirety in Lawrence, ed., 2005, at 245–75, under the title, “Depose the Tyrants,” posted on the Global Islamic Media Front website, December 15, 2004.

³³² I found it difficult to find a complete copy of this declaration. Bin Laden, 2004, at 13–28, is missing two pages in the middle of the document. Bin Laden, in Lawrence, ed., 2005, at 24–30, is an abbreviated version of the statement. Bin Laden, 1996, “Declaration of Jihad Against the Americans Occupying the Land of the Two Holiest Sites,” Harmony Database AFGP-2002-003676, West Point: Combating Terrorism Center, leaves out many Hadiths and Quranic quotations. The summary in the text is a composite of all three sources.

³³³ Bin Laden, 2004, at 14.

³³⁴ Bin Laden, 2004, at 22.

for what has afflicted the country and the people, the main disease and the cause of the affliction is the occupying US enemy. So, efforts should be pulled to kill him, fight him, destroy him.”³³⁵

Bin Laden called for “Muslim brothers everywhere, the Arabian Peninsula in particular ... women ... to play their role by boycotting US goods. If the economic boycott is coupled with the mujahidin’s military strikes, then the enemy’s defeat is imminent – and vice versa: If the Muslims do not cooperate with and support their mujahidin brothers by severing economic dealings with the US enemy, then they are paying him money, which is the foundation of wars and armies, hence prolonging the war and the Muslims’ suffering from it.”³³⁶ To U.S. Defense Secretary William Perry, who had called the Riyadh and al-Khobar bombers cowardly terrorists, he replies, “The youths you called cowards are competing among themselves for fighting and killing you. They love death as much as you like life.”³³⁷ He told the mujahidin who fought in Afghanistan and Bosnia that the war was not over. “Brother Muslims worldwide: Your brothers in the land of the two holy mosques and Palestine seek your help and ask you to participate with them in their jihad against their enemies and yours, the Israelis and the Americans, with everything that would drive them out of the Islamic holy places, defeated, with each of you doing what he can.... So, mount your horse for God’s cause. This is the time to be firm, so be firms and know that your unity and cooperation for the liberation of the Islamic holy places is a sound step toward the unification of the nation’s ranks under the banner of the one God.”³³⁸

Bin Laden’s epistle was a call for a defensive jihad in the traditional sense of the term against infidel troops in a Muslim land. The fighting and the boycott of U.S. goods were to be limited to the KSA. However, since he was not a legitimate religious authority, he could not sanction it himself, as Sheikh Azzam and Sheikh bin Baz had done for Afghanistan in the early 1980s. Although he had used his old tactic of faxing his statement to a newspaper, the target (the United States) was a provocation that attracted the interest of the world news media. Before, he certainly had the attention of the KSA government, the CIA,³³⁹ and probably a small following

³³⁵ Bin Laden, 2004, at 23.

³³⁶ Bin Laden, 2004, at 24.

³³⁷ Bin Laden, 1996, Harmony Database AFG-2002-003676, at 14.

³³⁸ Bin Laden, 2004, at 27–8.

³³⁹ Bin Laden’s exposure in the United States was derived from the CIA’s interest in him. See one of the first in-depth articles about him in Jeff Gerth and Judith Miller, 1996, “Terror Money: A Special Report: Funds for Terrorists Traced to Persian Gulf Businessmen,” *New York Times*, August 14, 1996, at 1.

in Saudi Arabia, but little international exposure. This switch in strategy from sending faxes through his ARC office in London to Saudi Arabia to exploiting the world news media to propagate his message worked beyond his expectations.

Before his return to Jalalabad, bin Laden had shied away from any interview, except for one given to Robert Fisk in 1993,³⁴⁰ *al Quds al Arabi* in the wake of the attempt on his life in Khartoum,³⁴¹ and *Time* magazine right before his departure from Khartoum.³⁴² In the two years after his return to Afghanistan and before the East Africa Embassies bombings, he gave five interviews and declared jihad on Americans in the second half of 1996;³⁴³ gave another eight press interviews and two television interviews in 1997;³⁴⁴ and capped it with ten more interviews to the press, a call for a larger jihad, a press conference, and another television interview in the first half of 1998.³⁴⁵ An Australian Islamist journal described him as “financing terrorism and being part of an international terrorist organization.”³⁴⁶ Visiting journalist Abdel Bari Atwan called him “a leader of Islamic ‘terrorism.’”³⁴⁷ He was deliberately coy and vague when asked about the Saudi bombings, implying that he knew more than he said. He gave the impression that he might have had some degree of involvement in them, thereby increasing his own importance in world affairs in the eyes of journalists and their audience.

Shortly after bin Laden issued his declaration of jihad, the Taliban captured Jalalabad. A month later, they captured Kabul and became the de facto rulers of most of Afghanistan. As he had been invited to come to Jalalabad by the enemies of the Taliban, bin Laden worried about how they would react to his presence. In fact, the Taliban were suspicious about Arabs in general

³⁴⁰ Robert Fisk, 1993, “Anti-Soviet warrior puts his army on the road to peace,” *The Independent*, December 6, 1993, at 10.

³⁴¹ Ali Abd al-Karim and Al-Nur Ahmad al-Nur, 1994, “Interview with Saudi Businessman Usama bin Laden,” *Al-Quds al-Arabi*, March 9, 1994, at 4, in Bin Laden, 2004, at 1–3.

³⁴² Scott, Macleod, 1996, “The Paladin of Jihad: Fearless and super-rich, Osama bin Laden finances Islamic extremism,” *Time*, Vol.147, No. 19, May 6, 1996, at 51–2.

³⁴³ I suspect that the first one by Fayizah Sad published in *Rose al-Yusuf* on 17 June 1996 might have been some form of disinformation to discredit bin Laden because of the vast number of inaccuracies and the allegation that he had ties with Iran. For the rest of the interviews, see bin Laden, 2004, at 28–36; Lawrence, ed., 2005, at 31–43; and Robert Fisk, 1996a.

³⁴⁴ Bin Laden, 2004, at 38–55.

³⁴⁵ Bin Laden, 2004, at 55–74; bin Laden, in Lawrence, ed., 2005, at 44–62.

³⁴⁶ Bin Laden, “The New Powder Keg in the Middle East,” *Nida’ul Islam*, No. 15, October/November 1996, reproduced in full in Lawrence, ed., 2005, at 31–43. The quote is at 39.

³⁴⁷ Atwan, 1996, in bin Laden, 2004, at 28–36. The quote is at 29.

since Arabs had fought against them under the banner of Hikmatyar in Wardak Province and the Khalden takfiris claimed that the Taliban were not true Muslims. Prince Turki remembered, “The new regime promptly sent a message to the Saudi government saying that it had ‘inherited’ bin Laden and that it had ‘given him refuge.’ It did not offer to hand him back to us. We replied, in effect, that the Taliban could keep bin Laden, but we would expect them to stop him from issuing anti-Saudi statements. This the Taliban undertook to do.”³⁴⁸

On the contrary, bin Laden’s media visibility increased, and the Saudi ambassador in Islamabad also amplified his complaints and drew the attention of the Taliban prime minister in Kabul. The U.S. government echoed Saudi concerns, and its embassy in Islamabad sent a representative to the Taliban to explore the intentions of the new Taliban government. One of its talking points was, “Do you know the location of ex-Saudi financier and radical Islamist Osama bin Laden? We had heard previously that he was in the eastern provinces. His continued presence here would not, we believe, serve Afghanistan’s interests.”³⁴⁹

The Taliban prime minister investigated the Arab presence in Jalalabad, where bin Laden had settled his followers in a compound that they named *Najm al-Jihad* (Star of Jihad). He asked bin Laden to come to Kabul to meet with him. Bin Laden demurred, but asked Hamid to go and represent him because Hamid had been in Afghanistan the longest, knew some of the Taliban, and had a white beard, which was respected among Afghans. Hamid and Abu Hafs went to meet the prime minister, who told them that the new regime needed time to consolidate its power and asked that bin Laden refrain from talking to the press and making provocative statements. When Hamid and Abu Hafs were about to leave, the prime minister said that they were his guests because they had been mujahedin in the past and he wanted to help them. He said that Afghans in Jalalabad had told him that the bin Laden’s Arabs there were living in mud houses, in very crowded conditions, and they had not seen poor Arabs before. Therefore, the prime minister gave Hamid a sack full of Afghanis, the local currency, amounting to about \$3,000.³⁵⁰

However, despite the Taliban prime minister’s welcome and hospitality, a faction of the Taliban was still against AQ’s presence in Jalalabad. In late November 1996, after one of bin

³⁴⁸ Prince Turki, 2021, at 164.

³⁴⁹ State Department Cable, 1996, “Dealing with the Taliban in Kabul,” September 28, 1996, at 5. This cable was declassified by the National Archives and is available at <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB97/tal17.pdf>.

³⁵⁰ Hamid and Farrall, 2015, at 217–9.

Laden's public statements got back to him, Mullah Omar dispatched a helicopter to Jalalabad and summoned him to Qandahar. Bin Laden was worried that he was going to be executed and appointed Abu Hafs as his successor before boarding the helicopter with Hamid, Sayf al-Adl, and five bodyguards. Mullah Omar was gracious to his guest but asked him to refrain from making public statements while under his protection. However, at the end of the meeting, out of politeness, he ended with, "You are in your country; you can do whatever you want." Bin Laden interpreted this politeness as a green light for any of his activities, to the ire of Hamid, who warned him against playing games with the Taliban.³⁵¹ At the same time, it appeared that the Taliban promised the KSA that they would keep bin Laden from operating against the kingdom or say anything against it.³⁵²

In 1996 after the end of the Bosnian war, Islamists in search of jihad were looking for a conflict where Muslims were fighting infidels. One of them was still Somalia and its province of Ogaden, but the conditions there discouraged most foreigners from getting involved.³⁵³ In the mid-1990s, the major attraction for restless young Muslim militants was Chechnya.³⁵⁴ The champion of the Arab ansar in Chechnya was Samir al-Suwaylim (ibn Khattab), who had his own resources and funds. He was a rival of bin Laden and, at the time, far more popular in the Gulf, perhaps because he supported the royal family as he sometimes fought under the Saudi flag. The cease-fire in Chechnya in August 1996 and consequent withdrawal of Russian troops gave Suwaylim a victorious reputation.³⁵⁵ As the two most prominent neojihadis of the mid-1990s, he and bin Laden reached out to each other. However, "Khattab did not like al-Qaeda. They exchanged a few letters but that was it. Khattab was the victorious one. He did not need

³⁵¹ Hamid and Farrall, 2015, at 220–2.

³⁵² See Coll, 2004, at 341–1, and FN 12, at 619–20.

³⁵³ Al-Bahri, 2010, at 57–62.

³⁵⁴ See for example, Aukai Collins, 2002, *My Jihad: The True Story of An American Mujahid's Amazing Journey from Usama Bin Laden's Training Camps to Counterterrorism with the FBI and CIA*, Guilford, Connecticut: The Lyons Press, at 41–130. The Saudi religious establishment sanctioned this conflict as a jihad. See Muhammad al-'Ubaydi, 2015, at 20–1; and Hamid and Farrall, 2015, at 248.

³⁵⁵ Al-'Ubaydi, 2015, at 21.

al-Qaeda. His front was more popular.”³⁵⁶ There did not seem to be a relationship between the Arab ansar in Chechnya, dominated by Suwaylim, and AQ.³⁵⁷

After the Chechen Russian cease-fire, Islamist militants shifted their focus to the ongoing civil war in Tajikistan. A group of about three dozen Arabs traveled to Pakistan and Afghanistan up to the border of Tajikistan. Allegedly, bin Laden gave them \$35,000 for their mission. When they crossed into Tajikistan, their hosts turned out to be unreliable and tried to exploit them rather than welcome them as ansar. The volunteers returned to Afghanistan and temporarily rested at a local guesthouse in Jalalabad just before Ramadan, which started on 9 January 1997.³⁵⁸ There, bin Laden, Abu Hafs, Sayf al-Adl, and others tried to convince them to attend one of his re-opened training camps. Half of the group, mostly coming from the Gulf, accepted while the rest returned home. Those who accepted went to Jihadwal in Khost just after Eid al-Fitr (11 February 1997) for a 45-day training course taught by Sayf al-Adl. Afterwards, only ten agreed to join AQ conditionally and pledged their loyalty to bin Laden personally.³⁵⁹

This episode indicates how low AQ’s appeal was at the time. Bin Laden and his lieutenants at Najm al-Jihad had to put a full court press for the full month of Ramadan on about 36 dedicated mujahedin, veterans of three jihadi campaigns (Bosnia, Somalia, and Tajikistan), to convince less than a third of them to join his organization. It seems that those who eventually joined did so out of a sense of personal relationship with bin Laden himself because of their shared Gulf background. Nevertheless, this episode was an important development for two

³⁵⁶ Hamid, in Hamid and Farrall, 2015, at 184.

³⁵⁷ Hamid (Hamid and Farrall, 2015, at 184) recalled a fighter, Abu Islam al-Masri, who had left AQ in the early 1990s and later went to fight in Chechnya, but he did not do so as an AQ member. Al-Fadl testified that Madani al-Tayeb told him that AQ had set up a “relief organization” in Baku to smuggle people into Chechnya. However, the testimony was garbled due to poor translation, and it is unclear whether this office already existed or al-Tayeb wanted al-Fadl or Wadih el-Hage to go there and set it up. Fadl testimony, February 6, 2001, at 301–4. Later, when the Russians chased Suwaylim out of Chechnya to Dagestan, bin Laden invited his rival to come to Afghanistan as his subordinate, which Suwaylim declined (Hamid and Farrall, 2015, at 248–9). Yossef Bodansky, 2007, *Chechen Jihad: Al Qaeda’s training Ground and the Next Wave of Terror*, New York: HarperCollins, implies in his provocative title that AQ was involved in Chechnya. However, his book, which contains no footnote or bibliography, lumps all foreigners who trained in Afghanistan or fought in Chechnya as AQ without providing any evidence for this claim.

³⁵⁸ Al-Bahri, 2010, at 63–70.

³⁵⁹ Al-Bahri, 2010, at 76–81.

reasons. First, it infused AQ, devastated by its expulsion from Sudan, with ten needed new recruits in one shot. Most of these newcomers would play important operational roles in upcoming AQ attacks, including the East Africa embassies³⁶⁰ and the *USS Cole* bombings.³⁶¹ They also became the core of bin Laden's bodyguards as their loyalty was strictly to him rather than his organization or his lieutenants.³⁶² The fact that these ten newcomers were quickly promoted to such position of responsibility within a year of joining illustrates how thinly manned AQ was prior to late 1999. But probably more important, it also opened the heavily Egyptian-laden AQ for Gulf Arab recruitment, as many Yemenis and Saudis later joined from friendship and kinship connections to this seed group.

b. Intensification of AQ Propaganda Campaign

Bin Laden defied Mullah Omar's demand to stay silent and continued his propaganda campaign with half a dozen interviews with international journalists in the next month. He set the scene for them by having his followers take them blindfolded in the middle of the night to his Tora Bora sanctuary, where he appeared surrounded by warriors patrolling in camouflage outfits armed with AK-47s and RPG-7s. While urging Muslims to join him in the fight to expel U.S. troops from the KSA, he made grandiose claims ("his followers ... forced American troops to leave Somalia in 1993,"³⁶³ "I made all the Mujahidin groups agree on the point that an alliance with Najibullah is not acceptable,"³⁶⁴ "led an army of Arab fighters against the Soviet occupation

³⁶⁰ Jihad Mohammed Ali al-Harazi, "Azzam," the Nairobi suicide bomber was part of the group. Al-Bahri, 2010, at 148.

³⁶¹ One of its two organizers, Abdul Rahim al-Nashiri (Mullah Bilal, and cousin of Jihad Ali al-Harazi), was a member of this group. Al-Bahri, 2010, at 221; *9/11 Commission Report*, at 152. Muhannad bin Attash, brother of the other main organizer of the *USS Cole* attack, Walid bin Attash (Khallad), was a leading member of this group and the person who got this group's money from bin Laden and later introduced its members to him. Muhannad was killed a few months later fighting Masoud's forces in the north of Kabul while Khallad lost his leg in that battle. Al-Bahri, 2010, at 65, 70.

³⁶² Nasser al-Bahri, Jihad Ali al-Harazi, and Salim Hamdan, who also became bin Laden's chauffeur. Al-Bahri, 2010, passim.

³⁶³ To Gwyn Robert, of London Channel 4 Television Network, broadcast on 20 February 1997, at bin Laden, 2004, at 38.

³⁶⁴ To Hamid Mir, 18 March 1997, about his role in the Peshawar Accords of April 1992, at bin Laden, 2004, at 43.

of Afghanistan”³⁶⁵) and promoted his self-importance (“The United States considers me the most dangerous threat,”³⁶⁶ “regarded by Washington as the West’s most dangerous Muslim fundamentalist enemy”³⁶⁷).

After similar cloak and dagger instructions,³⁶⁸ bin Laden granted an interview to Peter Arnett of CNN.³⁶⁹ “We declared jihad against the U.S. government, because the U.S. government is unjust, criminal, and tyrannical ... and we believe the U.S. is directly responsible for those who were killed in Palestine, Lebanon, and Iraq.... We have focused our declaration on striking at the soldiers in Saudi Arabia.... Therefore, even though American civilians are not targeted in our plan, they must leave.... regarding the American people, they are not exonerated from responsibility, because they chose this government and voted for it despite their knowledge of its crimes in Palestine, Lebanon, Iraq, and in other places, and its support of its client regimes.... So, the defensive jihad against the U.S. does not stop with its withdrawal from the Arabian Peninsula; rather, it must desist from aggressive intervention against Muslims throughout the whole world.”³⁷⁰

Shortly after the CNN interview,³⁷¹ several dozen Afghan mercenaries coming from Peshawar and led by the son of the former governor of Jalalabad attempted to attack Najm al-Jihad in an assassination or kidnapping attempt against bin Laden. The Taliban security forces intercepted them.³⁷² Hamid and al-Bahri claim that, upon interrogation by the Taliban, the leader of the group confessed that the Saudi consulate in Peshawar had paid him \$200,000 to carry out

³⁶⁵ To Robert Fisk, *The Independent*, 22 March 1997, at bin Laden, 2004, at 48.

³⁶⁶ To Hamid Mir, see FN 292, at bin Laden, 2004, at 45.

³⁶⁷ To Robert Fisk, see FN 293, at bin Laden, 2004, at 48.

³⁶⁸ See Peter Bergen, 2001, *Holy War, Inc.: Inside the Secret World of Osama bin Laden*, New York: The Free Press, at 1–23; and Bergen, 2006, at 179–83.

³⁶⁹ Reproduced in its entirety in Lawrence, ed., 2005, at 44–57.

³⁷⁰ Bin Laden, in Lawrence, ed., 2005, at 46–8.

³⁷¹ Al-Bahri, 2010, at 76, states that the attack happened right before his departure for Jihadwal, which would be mid-February. However, this cannot be true since bin Laden shortly thereafter moved to Qandahar as the narrative shows, but he gave half a dozen interviews that took place near Jalalabad. A more likely time frame is suggested in his earlier interview with Khalid al-Hammadi, where he states that the attack took place as he was concluding his training at Jihadwal, placing the attack in late March. See Khalid al-Hammadi, 2005a, “Al-Qa’ida’s Inside Story, as Told by Abu Jandal – Nasir al-Bahri, bin Ladin’s Bodyguard (Part 5),” *Al-Quds al-Arabi*, March 26, 2005, translated by FBIS.

³⁷² Al-Hammadi, 2005a; Wright, 2006, at 247.

this assassination.³⁷³ I found no other sources for this claim about Saudi involvement in this attack. Hamid and al-Bahri are not primary sources on this and probably reported the Jalalabad rumor mill. They could have been Peshawar takfiris who had already attempted to assassinate bin Laden in Khartoum. Nevertheless, this claim, true or false, is significant for their beliefs attest to its credibility, which itself illustrates the belligerence between bin Laden, AQ, and the KSA.

Upon hearing of this attack, Mullah Omar dispatched his helicopter to bring bin Laden to Qandahar. At their meeting, Mullah Omar ordered bin Laden and the entire Najm al-Jihad community to move to the vicinity of Qandahar, where they could be better protected. They immediately moved into temporary houses and guesthouses in Qandahar before relocating to a large walled compound, the Tarnak Farm, outside the airport complex and surrounded by agricultural land, where they could grow wheat. The newcomers rehabilitated this former abandoned Soviet barracks into a large housing complex, with 80 housing units sheltering about 200 Arabs, including all the leaders' families. The compound featured a store, a mosque, and its own generator. It also included a six-story office building, which became AQ's administrative headquarters.³⁷⁴

The CNN interview was broadcast worldwide on 12 May 1997.³⁷⁵ It affected the Saudi royal family, as Prince Turki remembered. "In 1997, he [bin Laden] appeared on American television, one of the networks, and gave an extensive interview, where not only did he denounce Saudi Arabia, but he also denounced the United States, and promised bloodshed, if you like, as the future of both countries. We complained to the Taliban about that, and they said, 'We promise you he is not going to do it anymore.'"³⁷⁶

In the spring of 1997, AQ had re-opened al-Faruq, Jihadwal, and al-Sadiq in the Khowst region. In addition, several Arabs who had stayed in Afghanistan throughout the 1990s joined AQ, including Nashwan Abd al-Baqi (Abd al-Hadi al-Iraqi) and Mustafa al-Uzaybi (Abu Faraj

³⁷³ Hamid and Farrall, 2015, at 225; Al-Bahri, 2010, at 76–7. Al-Bahri also claims that bin Laden told him that Yunis Khales had said to him that the Saudi general consul in Peshawar had asked Khales to deliver bin Laden to him. Khales refused. This seems far-fetched since the Saudis had an opportunity to get bin Laden from Sudan eight months earlier but passed up on it.

³⁷⁴ Al-Bahri, 2010, at 82, 103–4; Coll, 2004, at 342–3; Hamid and Farrall, 2015, at 225; Al-Hammadi, 2005a.

³⁷⁵ Bergen, 2001, at 23.

³⁷⁶ Al-Faisal, 2002, at FED-PEC0052584.

al-Libi). Ahmad Shah Masoud's troops again threatened Kabul, and Mullah Omar asked bin Laden for help. Many of AQ's future military commanders fought in this defense of the Afghan capital. Their participation in that battle was crucial to forging close military bonds between AQ and the Taliban. At the time, most Arabs in the country were associated with Khalden camp, whose leaders discouraged them from fighting with non-Salafi Muslims like the Taliban.³⁷⁷ During its Sudanese exile, AQ had lost ground to Khalden, which had become the Arab's preeminent training camp. It had trained fighters and sent them to all the major conflicts of the mid-1990s, like Bosnia, Chechnya, and Algeria, while AQ had been involved in Somalia. AQ lacked money, recruits, and its morale was low, especially among those who had not wanted to return to Afghanistan. It also became a target of heavy criticism by other Arabs in Afghanistan for fighting alongside the Taliban.³⁷⁸ Nevertheless, over time, its alliance with the Taliban would give it a decisive advantage over its Arab rivals in Afghanistan.

In January 1998, Saudi security forces intercepted at the Yemeni Saudi border several Islamist militants attempting to "smuggle four Russian-made anti-tank missiles into Saudi Arabia."³⁷⁹ Bin Laden later referred to this plot in his May 1998 press conference (see below), "Two months back, the Saudi government confiscated a sizeable quantity of arms used by our Mujahidin, including seven rockets and Stinger missiles."³⁸⁰ The 9/11 Commission implicated Abd al-Rahim al-Nashiri and therefore AQ in this plot.³⁸¹ However, the JTF-GTMO Detainee

³⁷⁷ Al-Bahri, 2010, at 79–91; Hamid and Farrall, 2015, at 221–9.

³⁷⁸ Hamid and Farrall, 2015, at 230–1.

³⁷⁹ *9/11 Commission Report*, at 152. Prince Turki, 2021, at 166, specifies that they were Russian-made Sagger anti-tank missiles apparently for use in attacks on police stations. Thomas Hegghammer, 2008, "Islamist violence and regime stability in Saudi Arabia," *International Affairs*, 84 (4), at 708; and Hegghammer, 2010, at 114, claims that the plot targeted the U.S. consulate in Jeddah at the time of U.S. Vice President Al Gore's visit to the kingdom.

³⁸⁰ Bin Laden, 2004, at 113. Writing before the publication of the *9/11 Commission Report*, Peter Bergen, based on an interview with a journalist who was at bin Laden's press conference, wrote that the Islamists were "in possession of an American Stinger missile and a number of SA-7 surface-to-air missiles," at Bergen, 2001, at 100. Steve Coll, 2004, at 397, also writing before the publication of the *9/11 Commission Report*, followed suit, and referred to Bergen's account.

³⁸¹ *9/11 Commission Report*, at 152. But in its footnotes, the Commission notes that this was based on Nashiri's interrogations and that his accounts are inconsistent and may not be true, at 491. See Senate Select Committee on Intelligence, 2014, *Committee Study of the Central Intelligence Agency's Detention and Interrogation Program*, Washington, D.C.: United States Senate, at 66–75, for a summary of the various interrogation techniques that al-Nashiri was

Assessment on al-Nashiri fails to make any mention of this plot, despite the fact that these assessments lean toward inclusion of any rumor of a plot. Furthermore, the assessment repeats several times that al-Nashiri joined AQ only after learning that his cousin blew himself up in the Nairobi U.S. Embassy bombing, or about eight months after the capture of these missiles.³⁸² When asked whether he was connected with the arrested militants in Saudi Arabia, bin Laden was his usual coy self, “These are people who agree with my views and who want the U.S. forces to get out of Saudi Arabia. They are not my men but have the same views as me.”³⁸³ Bin Laden’s denial should not be viewed as definitive since he later denied being connected to the East Africa Embassies bombings and the 9/11 attacks. He knew that his denials were not taken seriously, and he liked to let others assume that he might have been responsible for many more attacks than he actually was. The Saudi security services under Interior Minister Prince Nayef investigated this incident but, at the time, did not share the results of his investigation with U.S. intelligence because of Prince Nayef’s suspicion about U.S. intentions.³⁸⁴ Prince Nayef’s foot-dragging with U.S. intelligence at the time was not a sign of sympathy toward AQ. On the contrary, he escalated his and the KSA’s belligerence toward AQ. As a result of this incident, Saudi security forces conducted another major crackdown in the kingdom. As bin Laden noted, “820 Mujahidin have been arrested in Saudi Arabia since the first of Ramadan and the Americans took away their arms.”³⁸⁵

On the propaganda front, after his move to Tarnak Farm till the end of the year, bin Laden just managed half a dozen short telephone interviews with Pakistani journalists³⁸⁶ that did not attract much attention outside Pakistan. To further raise his profile, he faxed to Fawwaz in London a fatwa under the name of the “World Islamic Front” urging “Jihad against Jews and Crusaders,” co-signed by Zawahiri of Tanzim al-Jihad, Rifai Taha of the Islamic Group, Mir

subjected to before his transfer to GTMO. These interrogations prior to al-Nashiri’s transfer to GTMO are the ones on which the 9/11 Commission relied on.

³⁸² JTF-GTMO Detainee Assessment, Abd al-Rahim Hussein Muhammad Abdah al-Nashiri, ISN: US9SA-010015DP, December 8, 2006, at 3, 13.

³⁸³ Bin Laden, 2004, at 113.

³⁸⁴ See FBI and CIA Collaborative Intelligence Assessment, *Assessment of Saudi Arabia Support to Terrorism and the Counterintelligence Threat to the United States*, December 2004, EO14040-003414-42, at EO14040-003423.

³⁸⁵ Bin Laden, 2004, at 113.

³⁸⁶ Bin Laden, 2004, at 52–5.

Hamzah of the Jamiat-ul-Ulema-e-Pakistan, and Fazlur Rahman of the Jihad Movement of Bangladesh, dated February 23, 1998.³⁸⁷ In it, bin Laden escalated from a jihad targeting U.S. troops in the KSA to a more general call, “To kill the American and their allies – civilians and military – is an individual duty incumbent upon every Muslim in all countries, in order to liberate al-Aqsa Mosque and the Holy Mosque from their grip, so that their armies leave all the territory of Islam... With God’s permission we call on everyone who believes in God and wants reward to comply with His will to kill the Americans and seize their money wherever and whenever they find them.”³⁸⁸

This was the first time that bin Laden explicitly justified and urged attacks on U.S. civilians anywhere in the world. Indiscriminate mass murder of civilians became the order of the day. The Front generated some resistance among Islamists who believed that bin Laden had crossed a line. Atwan, the editor of *al-Quds al-Arabi*, which published the statement, and Fawwaz, the ARC representative in London, both condemned the statement for it was the first time anyone was calling for the indiscriminate killing of Jews and Crusaders.³⁸⁹ An Islamist militant in London said that “al-Zawahiri told bin Laden that the US would never take him seriously as long as his complaints were reasonable. Wanting to get U.S. troops out of Saudi Arabia is something even the average American citizen can understand and might sympathize with, so this is not going to make the headlines and if it doesn’t get the exposure, it’s not going to help with recruitment... Let the Americans become your personal media agents – they’ve got the biggest PR machine in the whole world... This is not for the purpose of killing Americans... This is for the purpose of driving them crazy. They are cowboys and will react without thinking.”³⁹⁰ Hamid also rejected the Front, “The Front was nothing; it was just for propaganda [to mobilize people].”³⁹¹ In fact, because of a backlash from other leaders of *Tanzim al-Jihad*, al-Zawahiri was forced to resign from it shortly after the publication of the fatwa; and Taha was forced to recant his signature two months later.

As Prince Turki remembered, “For its part, Saudi Arabia continued to send protests to the Taliban about bin Laden’s activities, and they continued to ignore them. At one point the Taliban

³⁸⁷ Reproduced in Lawrence, ed., 2005, at 58–62; and bin Laden, 2004, at 56–8.

³⁸⁸ Bin Laden, in Lawrence, ed., 2005, at 61.

³⁸⁹ Bergen, 2006, at 194–5.

³⁹⁰ Saad al-Faqih, in Atwan, 2006, at 78–9. This story sounds apocryphal and is not well sourced.

³⁹¹ Hamid and Farrall, 2015, at 235.

government was bold enough to ask for financial help; it was turned down flatly because it had not kept its promises about bin Laden and was still fighting other Afghans.” KSA officials were angry not only because of the stream of statements and interviews bin Laden gave but also because of the attempted smuggling of the Sagger anti-tank missiles into the kingdom and suspected links to bin Laden.³⁹²

c. KSA Demand for bin Laden’s Extradition

Bin Laden continued to escalate his media exposure. Journalists from all over the world were now lining up to interview him, and articles about him appeared regularly.³⁹³ To top off his propaganda campaign, bin Laden organized a videotaped press conference on 26 May 1998 for about a dozen Pakistani journalists at one of his camps in Khowst.³⁹⁴ It was well orchestrated. The journalists were driven at night across the border and arrived at the camp. A “prolonged gunfire ... greeted his [bin Laden] arrival and departure at the al-Badr camp... About two dozen, hooded bodyguards dressed in black cordoned him off as he moved. Most carried Kalashnikov rifles with their fingers on the trigger while a few were armed with SAM-7 missiles.”³⁹⁵ Zawahiri translated for bin Laden. A journalist asked about his relationship with the Taliban, “How far are you allowed to participate in political and other activities in Afghanistan?” He replied, “We are asked to avoid military activities, but there is no restriction on political activities.”³⁹⁶

Two days later, bin Laden gave a television interview at his al-Faruq camp to John Miller of ABC News and provided him with the same type of enthusiastic atmosphere from his followers.³⁹⁷ Giving some credence to the al-Faqih story above, Miller told one of bin Laden’s

³⁹² Prince Turki, 2021, at 166.

³⁹³ See bin Laden, 2004, at 58–74.

³⁹⁴ See bin Laden, 2004, at 72–4 (Rahimullah Yusufzai’s article), 111–7 (Abu Shiraz’s transcript of the conference); Al-Bahri, 2010, at 88.

³⁹⁵ Rahimullah Yusufzai, 1998, “In the Way of Allah,” *The News (Islamabad)*, in bin Laden, 2004, at 72–3. I suspect the author meant RPG-7, a common weapon for guerrilla fighters. Al-Bahri, 2010, at 88, and Hamid and Farrall, 2015, at 235, claim that the camp was Jihadwal.

³⁹⁶ Abu Shiraz, in bin Laden, 2004, at 116. Rahimullah Yusufzai makes the same observation in his own account, at bin Laden, 2004, at 74.

³⁹⁷ Bin Laden, 2004, at 104–6; Bergen, 2006, at 210–8. See also John Miller’s cloak and dagger account of his interview and longer portions of the interview in John Miller, 1999, “Greetings, America. My name is Osama bin Laden. A conversation with the most dangerous man in the

men to frame his issues about America in such a way that people might find his argument reasonable. The man smiled, “It may be better if he does not appear to be too reasonable.”³⁹⁸ It was broadcast two weeks later and again a week after the 9/11 attacks.³⁹⁹

The press conference and ABC television interview denouncing the Saudi royal family was the last drop for the Saudi royal family. “The beginning of 1998, again to an American company, network company, bin Laden said the same things [as the CNN interview], so I was sent to Afghanistan by King Fahd and Crown Prince Abdullah to try to get Mullah Omar to hand bin Laden to us.”⁴⁰⁰ Crown Prince Abdullah’s decision to extradite bin Laden was strongly supported by the U.S. government, which sent CIA Director George Tenet to Saudi Arabia to meet with Crown Prince Abdullah. “I raised the President’s strong interest in taking immediate action to prevent Usama Bin Ladin from carrying out his threats to conduct terrorist attacks against U.S. and Saudi interests. The Crown Prince expressed strong concurrence with the President’s assessment of the Bin Ladin threat and the need to take the initiative before Bin Ladin strikes. The Crown Prince said that he has decided to dispatch Prince Turki ... to Afghanistan immediately to meet with the Taleban and ‘demand’ that they expel/deport Bin Ladin.... Prince Turki is making arrangements to travel to Afghanistan as soon as possible – hopefully this week.”⁴⁰¹

For this mission, Prince Turki was accompanied by recently retired MoIA Minister Sheikh Abdullah al-Turki (no relation).⁴⁰² The composition of this delegation, namely the leaders of the GID and MoIA, shows that they were the main Saudi institutions fighting against AQ outside the kingdom. Within it, the Interior Ministry shared this mission with the MoIA. In mid-

world,” *Esquire* (February), at 96, available at <https://www.esquire.com/news-politics/a1813/osama-bin-laden-interview/>, in bin Laden, 2004, at 88–101. Al-Bahri, 2010, at 88–90, describes Miller’s interview from AQ’s perspective.

³⁹⁸ Miller, 1999, in Bin Laden, 2004, at 89.

³⁹⁹ Bin Laden, 2004, at 104.

⁴⁰⁰ Al-Faisal, 2002, at FED-PEC0052584.

⁴⁰¹ Director of Central Intelligence George Tenet, Memorandum for National Security Advisor Sandy Berger, Usama Bin Ladin, June 7, 1998, at CIA_000447.

⁴⁰² *In re: Terrorist Attacks on September 11, 2001*, S.D.N.Y., 03 MDL 1570 (GBD) (SN), Deposition of Dr. Abdullah al Turki, September 14, 2018, at 30–42; September 15, 2018, at 337–42. Sheikh al-Turki was the minister from 1993 to 1998. However, he had trouble recalling going to Afghanistan with Prince Turki, although he said he might have, and the details of the meeting, at 348–56, 443–5. See also Prince Turki, 2021, at 166.

June 1998, the two Saudis leaders stopped in Islamabad to pick up ISI Director General Naseem Rana and flew to Qandahar to meet with Mullah Omar. “We exchanged greetings and then I spoke at some length about what bin Laden had been doing while he had been living in Afghanistan and about the undertakings the mullah’s government had given that it would stop his activities. I ended by saying that I wanted bin Laden handed over to Saudi Arabia. Mullah Omar ... said, in principle, he was willing to give up bin Laden, but at the same time he felt constrained by his obligations, having given refuge to the man. I replied that, though I understood his reservations, he should consider some of the passages in the Quran and the Hadith which state that the security of the community as a whole should take precedence over the interest of an individual.”⁴⁰³

Prince Turki continued, “Sheikh Abdullah al-Turki added some remarks in the same vein. Together we suggested that we should establish a joint committee of ulema from both our countries to draft a legal judgement which would allow Mullah Omar to surrender his guest. The committee would meet within two weeks. It was understood by everybody present that bin Laden would be handed over, and that the purpose of the committee was simply to draw up a document which would give this move formal sanction. At the same time, I made it plain to Mullah Omar that once we had bin Laden, relations between our countries would move beyond the stage of diplomacy, but no specific financial arrangement was offered, or asked for.”⁴⁰⁴ The mention of diplomacy was a reference to the fact that the KSA had established diplomatic relations with the Taliban and had kept its embassy in Kabul open, with a chargé d’affaires. In another account of the same events, Prince Turki insisted that the commission was only a justification for bin Laden’s extradition, “I repeated to Sheikh Mullah Omar, ‘Do you agree that you’re going to hand over this fellow and that the only thing required is for us to sit down together and work out the modalities?’ And he said, ‘Assure the king and the crown prince that this is my view.’”⁴⁰⁵

By mid-1998, the Taliban had been able to impose some semblance of law and order on most of Afghanistan. Many Islamist militants persecuted in their own country came there. They

⁴⁰³ Prince Turki, 2021, at 167–8.

⁴⁰⁴ Prince Turki, 2021, at 168.

⁴⁰⁵ Coll, 2004, at 401. This account is based on Coll’s interview with Prince Turki (see FN 7, at 627) and various public interviews of Prince Turki. Prince Turki gave the same version in his declaration, at FED-PEC0049636, and al-Faisal, 2002, at FED-PEC0052584. However, see Wright, 2006, at 267–8, for a slightly different version of the same event.

established their own guesthouses and started their own training camps for new recruits. By far, the largest foreign militant faction in Afghanistan (much larger than Arabs of all kinds, including AQ) were Uzbeks, who had previously gone to Tajikistan to help Tajik militants but had to leave as a condition of the resolution of that civil war. In the summer of 1998, they officially formed the Islamic Movement of Uzbekistan, whose leaders Tahir Yoldashev and Juma Khojaev (Namangani) pledged *bayah* (allegiance) to Mullah Omar.⁴⁰⁶ The Eastern Turkmen militants from Xinjiang, China, also pledged bayah to Mullah Omar. Members of the Egyptian Islamic Group and Tanzim al-Jihad also returned to Afghanistan but did not have their own training camps. Then more groups from Algeria, Morocco, Tunisia, Libya, Turkey, Kurdistan, Jordan, and Palestine also came to Afghanistan. Many trained at Khalden, which produced the largest number of graduates during this period, or set up their own camps. There were also more specialized camps, like Midhat Mursi (Abu Khabab al-Masri)'s camp for explosives and chemical weapons training in Darunta and Mustafa Setmariam Nasar (Abu Musab al-Suri)'s al-Ghuraba's camp that emphasized political as well as military training.⁴⁰⁷ Many scholars and journalists lump all these various groups into one basket that they label AQ. Not only were they divided and disagreed with each other, but they were strong rivals to each other and AQ, in competition for relatively scarce funds and recruits. All these groups except AQ, Khalden, Darunta, and al-Ghuraba had a nationalist agenda and were not interested in AQ's global neojihad against the United States.⁴⁰⁸

On 13 July 1998, special adviser to Mullah Omar, Mullah Wakil Ahmad Muttawakil, accompanied by two other mullahs, met in Riyadh with Prince Turki, MoIA Minister Sheikh al-Turki and the Saudi chargé at its Kabul embassy to discuss the selection of the committee to sanction bin Laden's extradition. Mullah Muttawakil summarized the Taliban's relationship with bin Laden. "When we managed to take control of Jalalabad, the officer-in-charge of the embassy complained about bin Laden's presence in the region and the fact that he was given the

⁴⁰⁶ Guido Steinberg, 2013, *German Jihad: On the Internationalization of Islamist Terrorism*, New York: Columbia University Press, at 180–2.

⁴⁰⁷ This non-exhaustive list is derived from Abd al-Hakim (Abu Musab al-Suri), 2004, at 724–9; see also Lia, 2008, at 246–78.

⁴⁰⁸ See Vahid Brown, 2007, *Cracks in the Foundation: Leadership Schisms in al-Qa'ida, 1989 – 2006*, West Point: Combating Terrorism Center, at 12–8, available at <https://ctc.usma.edu/cracks-in-the-foundation-leadership-schisms-in-al-qaida-from-1989-2006/>; Hamid and Farrall, 2015, at 229–30.

opportunity to be interviewed by journalists. We moved him to Kandahar where we had him vow not to take any action against the Kingdom or oppose it... [After the May 1998 press conference,] Mullah Omar summoned bin Laden to Kandahar to discuss these developments with him, telling him, ‘You broke the vow you took and did something awful that affects us and others.’ ... He went on to pressure bin Laden to leave the country. Bin Laden responded, ‘God’s land is vast, but I will depart and leave my children in Afghanistan.’ The meeting ended with this understanding.”⁴⁰⁹

Mullah Muttawakil continued, “One might say that Bin Laden helps us, but this is incorrect as his capabilities are modest at best. He has promised us on more than one occasion to provide support for projects, but he has proven incapable. When he requests a meeting with any official, we expect him only to ask for more assistance.... We would also like to inform you that Bin Laden will be swiftly expelled from Afghanistan and will not be on our side... in Afghanistan, we agreed to apply pressure on Bin Laden to get him to leave the country. If you have another opinion on the matter, I am ready to continue our discussion until we reach a solution that satisfies everyone.” Prince Turki “assured the delegation that it would be best to hand bin Laden over to us and for them to get out of this bad situation, which would be in both our interests.”⁴¹⁰

In summary, the first two years after AQ’s return to Afghanistan were marked by a propaganda campaign that irritated the KSA. It had hoped that in Afghanistan, bin Laden would be silenced and forgotten, but the opposite happened. Bin Laden’s media exposure was no longer confined to Saudi Arabia but, by choosing the United States as its target, AQ acquired far more visibility than when it had limited its targeting to the Saudi royal family. Nevertheless, a subtheme to bin Laden’s propaganda was the illegitimacy of the royal family. As his interviews were now broadcast worldwide, the Crown Prince reversed Saudi policy to keep bin Laden abroad where he would continue to criticize the royal family. By June 1998, Prince Turki and MoIA Sheikh al-Turki had convinced Mullah Omar to extradite bin Laden to the kingdom,

⁴⁰⁹ Prince Turki, 2021, at 170. The quote is from Prince Turki’s memorandum for the record taken of his meeting with the three Afghan mullahs sent by Mullah Omar and reproduced in full in his book at 169–72.

⁴¹⁰ Prince Turki, 2021, at 171–2.

where he could be silenced. In July, Mullah Omar sent a delegation to Riyadh to discuss the details of this extradition.

d. Propaganda by the Deed: Bombings in Africa and AQ's Expansion

Despite its success in gaining world attention and antagonizing the Saudi royal family, bin Laden's propaganda campaign still failed to attract recruits and money. His theatrics could not compete with the allure of a legitimate jihad like Chechnya. Few had come to join AQ, which was still viewed as doing nothing. Bin Laden was desperate and had to do something to regain the reputation that he had lost to his rival Suwaylim, who was active in Chechnya and Dagestan. In August 1998, there were about 50 people left in AQ and up to ten each in the Egyptian Islamic Group and Tanzim al-Jihad. The next step in bin Laden's escalation of propaganda was a spectacular action that would attract Islamist militants to come and join or support AQ: propaganda by the deed! At the time of his press conference and his ABC television interview, this military operation was well on the way and involved a large portion of AQ's senior cadres, which shows how important a gamble the operation was for bin Laden.⁴¹¹

On 7 August 1998, AQ simultaneously bombed two U.S. Embassies in Nairobi and Dar Es Salaam, killing 224 people and wounding more than 5,000. Bin Laden, Abu Hafs, and Sayf al-Adl had started planning the twin bombings operation shortly after the 23 February 1998 World Islamic Front declaration. This was a suicide operation. The Dar Es Salaam truck was driven by Egyptian bomb instructor Hamdan Alal Awad (Ahmed al-Alamani, "Ahmed the German" because he looked German).⁴¹² The two Nairobi suicide bombers were Saudis: Mohamed Rashid al Owali and Jihad Mohammad Ali al-Harazi (Abu Ubaydah al-Makki but called "Azzam" by the other conspirators). They had all fought at the battle of Kabul against Masoud in 1997. The organizer, AQ's chief of training Abdullah Ahmed Abdullah (Abu Mohamed al-Masri, called "Saleh" by the other conspirators), and the master bomber, AQ's chief bomb instructor Mushin Musa Matwalli Atwah (Abdel Rahman al-Muhajir), were helped locally by AQ members: Khalfan Khamis Mohammed and Mustafa al-Fadl in Dar Es Salaam; and Mohammad Odeh and Abdullah Muhammad Fazul (Harun) in Nairobi. The local members

⁴¹¹ Hamid and Farrall, 2015, at 232–41.

⁴¹² Hamid claimed that he was an Islamic Group member, who wanted to retaliate for Sheikh Omar Abdul Rahman's imprisonment in the United States. Hamid and Farrall, 2015, at 241.

bought all the equipment, and Atwah flew in during the last week to build the two bombs. Abdullah supervised both operations in the field. Al-Hazari flew in seven weeks before the operation while the other two suicide bombers came in during the last week. The day before the operation, everyone left their respective cities except for K.K. Mohamed and Fazul, who were tasked to clean out the respective bomb factories before leaving.⁴¹³

The U.S. government retaliated on 20 August 1998, by bombing with cruise missiles the three AQ camps in Khowst. It had intelligence that the AQ leaders would be there, but on the way there, their convoy decided to go to Kabul instead.⁴¹⁴ Although its leaders survived, the missiles destroyed AQ's three camps as well as one of Jalaluddin Haqqani's weapons depot in Zhawar, killing 7 foreigners, 7 Pakistanis, and 20 Afghans. This eliminated all AQ's training camps, with the exception of some rare training sessions conducted at Tarnak Farm. The temporary absence of AQ training camps coincided with a lack of recruits.⁴¹⁵

The U.S. missile strike changed the relationship between the Taliban and bin Laden. Most Taliban leaders were against AQ because they believed it was undermining their ability to govern Afghanistan by bringing international sanctions on the country for harboring terrorists. Mullah Omar at first did not believe that AQ had carried out the bombings and was keeping the criticism at bay. After the missile strikes on Afghan territory, anger at AQ turned to anger at the United States. Allegedly, Mullah Omar summoned bin Laden, who pledged bayah to Mullah Omar as *Amir al-Muminin* (Commander of the Faithful) to appease his host.⁴¹⁶ Afghans were angry that their guests had been attacked, a clear violation of Pushtunwali, the Afghan traditional code of conduct. Now both the Afghan population and the Taliban felt proud to host a group that defied a superpower, raising it to an equal status in their eyes. The embassy bombings had introduced AQ to the world, and Islamist militants started to take notice. From their reaction, AQ

⁴¹³ *U.S. v. Usama bin Laden et al.*, S.D.N.Y., S(7) 98 Cr. 1023-LBS, 2001, *passim*; 9/11 Commission Report, at 68–70; al-Bahri, 2010, at 145–55; and Ali Soufan with Daniel Freedman, 2011, *The Black Banners: The Inside Story of 9/11 and the War Against al-Qaeda*, New York: W. W. Norton & Company, at 75–80, 93–5. The post bombing FBI raid on the charity Help Africa People led to the discovery of files of photos of the AQ leadership for the manufacture of false passports. It became the first FBI AQ photo book.

⁴¹⁴ Al-Bahri, 2010, at 149–50.

⁴¹⁵ Hamid and Farrall, 2015, at 242–3.

⁴¹⁶ Wright, 2006, at 288. From then on, bin Laden referred to Mullah Omar as Amir al-Muminin in his long Al Jazeera interviews of December 1998 and October 2001, in Lawrence, ed., 2005, at 86, 110.

members gradually felt proud that they had become famous, and many started to believe that they were heroes, equal in status to America, which was afraid of them.⁴¹⁷

In September 1998, Prince Turki returned to Qandahar to take custody of bin Laden. “September came. Nothing Happens. So, the King and Crown Prince sent me again to Kandahar and I met with Mullah Omar.”⁴¹⁸ “I went again via Islamabad, where on 18 September I met Prime Minister Nawaz Sharif, along with General Naseem Rana... I now asked that General Rana should accompany me again to back up my message that what had been agreed in June had to be implemented. We flew on to Kandahar the next day in the Prime Minister’s Airbus... General Rana began the proceedings by saying how important it was that agreements be honored for the sake of good relations between all parties, and then he handed the discussion over to me. I ran through our previous meeting and ended by reminding Mullah Omar of his commitment. Much to my surprise he said simply, ‘I never agreed to this.’ I reminded him that in June I had summarized very clearly what had been agreed before I left, and he replied, ‘No, it must have been a mistake in translation.’ Next, he denied that his adviser, Mullah Muttawakil, had said in Riyadh in July that his government was in the process of selecting members of the joint Saudi Afghan committee of ulema.

Mullah Omar launched into a tirade. “He asked why Saudi Arabia was being so horrible to bin Laden, who was ‘a good Muslim’ who had helped Afghanistan... It was the United States that was pushing Saudi Arabia to put pressure on Afghanistan to hand over bin Laden. The Saudi leaders were instruments in the hands of Americans. They were helping the Americans inflict hunger on the Iraqi people. The Americans were in the Holy Places, and it was very wrong of the Saudi ulema to allow their presence there.”⁴¹⁹ As he spoke, Mullah Omar’s voice grew shrill and he sweated. Prince Turki “stood up and before I left the room, I asked the translator to tell the mullah that I would not allow him to attack the kingdom, its leadership, its ulema and its people in such a way, and that his broken promise and what he had said that day would eventually cause great harm to the Afghan people. The whole meeting did not last more than half an hour or forty-five minutes.”⁴²⁰

⁴¹⁷ Hamid and Farrall, 2015, at 243–5; Al-Bahri, 2010, at 178–84.

⁴¹⁸ Al-Faisal, 2002, at FEC-PEC0052584.

⁴¹⁹ Prince Turki, 2021, at 178.

⁴²⁰ Prince Turki, 2021, at 178.

On the flight back to Islamabad, Prince Turki drafted some recommendations to the Crown Prince, including withdrawal of their chargé from Kabul, urging relief organizations to stop working with the Taliban, cut off all relations with the Taliban, reach out to Afghan groups, particularly Masood's Northern Alliance, which oppose the Taliban, and bringing the issue of the presence of bin Laden and other terrorist groups in Afghanistan to the Organization of the Islamic Conference. The KSA promptly implemented all these recommendations and suspended diplomatic relations with the Taliban. Only humanitarian aid to Afghan refugees and travel for the hajj continued to be allowed. From that time onwards, the KSA had no more substantial contact with the Taliban.⁴²¹

Shortly after the above incident, there was an assassination attempt against bin Laden's life. Bin Laden's bodyguard, al-Bahri, reported that the relationship between bin Laden and Prince Turki was not confined to attempts at persuasion and mediation. "What I know is that the Saudi intelligence sent agents more than once to assassinate Shaykh Usama bin Ladin but failed. I participated in the arrest of one such agent who tried to assassinate Usama bin Ladin in Afghanistan. The Saudi intelligence sent a young Uzbek man living in Saudi Arabia to the Usama bin Ladin headquarters in Qandahar, promising him two million Saudi riyals and the Saudi nationality and other things if he succeeded in killing bin Ladin. When we arrested him ... he was very dazed as though he had just woken up from a coma. He looked like a child. He was only 18 and had been deceived. He was crying in a very pathetic manner and said: I made a mistake. Finally, Shaykh Usama bin Ladin said: Release him."⁴²² Again, al-Bahri is the only source for this incident,⁴²³ but at least this time, he is a primary source as he personally interrogated the would-be assassin. Whether the GID sent an assassin to kill bin Laden or not, the story again illustrates the belligerent nature of the relationship between the KSA and bin Laden and AQ.

⁴²¹ Prince Turki, 2021, at 179–80; Prince Turki declaration, at FEC-PEC0049636. See also Coll, 2004, at 414–5.

⁴²² Khalid al-Hammadi, 2005b, "The Inside Story of Al-Qa'ida, as Told by Abu Jandal (Nasir al-Bahri), Bin Ladin's Personal Guard (Part 7), *Al-Quds al-Arabi*, April 2, 2005, translated by FBIS.

⁴²³ Wright, 2006, at 290, also cites this incident and provides the name of the potential assassin, Sidiq Ahmed, who confessed that Prince Salman, the Riyadh governor, had sent him to kill bin Laden. Prince Salman denied this. However, Larry Wright cites al-Hammadi's article (and therefore al-Bahri) as his source for this story.

Before their sense of pride of being considered the equivalent to the only surviving superpower set in, AQ members went through very tough times over the next few months. The bombings triggered a crackdown on AQ fundraising. Pakistani authorities put AQ's Pakistani representative Abu Hafs al-Sindi under close surveillance. No money came in through couriers. Bin Laden had no money to re-open his training camps for a while. He had to reduce the monthly payments to AQ families from \$200 to \$50. There was little food available. About 15 members left Tarnak Farm during the fall of 1998. Finally, a big influx of money came with Ramadan 1419H (20 December 1998 to 18 January 1999).⁴²⁴ Perhaps this came from the \$1.25 million that bin Laden received from the Sudanese government in compensation for his abandoned investment there.⁴²⁵ Optimism came back and, to cash in on their new fame, Abu Hafs called the Al Jazeera correspondent in Islamabad for an interview with bin Laden, which took place at the end of December.⁴²⁶ AQ opened a new but small training camp at Mes Aynak, in an abandoned mine in Logar not far from Kabul to accommodate the few Arab volunteers starting to trickle in. This would remain AQ's only training camp in 1999 with occasional sessions at Tarnak Farm.⁴²⁷

Probably the most important development for AQ in 1999 was the publicity it got from the Al Jazeera interview. The long-awaited program on bin Laden was broadcast on 10 June 1999, with the title "Destroying the Bases [al Qaeda]." Al Jazeera had advertised it for one month, with the caption, "A man against a state and a state against a man." When it aired, it emptied the streets of the major Saudi cities.⁴²⁸ The one-and-a-half-hour program was not a straightforward broadcast of his interview,⁴²⁹ but excerpts of his interview spliced with commentaries painted a very sympathetic portrait of a heroic young man standing up to an evil

⁴²⁴ Al-Bahri, 2010, at 169–72.

⁴²⁵ See bin Laden, n.d., "In Regard to the Money that is in Sudan," available at <https://www.dni.gov/files/documents/ubl2016/english/In%20regard%20to%20the%20money%20that%20is%20in%20Sudan.pdf>.

⁴²⁶ Bergen, 2006, at 241–2.

⁴²⁷ *9/11 Commission Report*, at 157.

⁴²⁸ See Bergen, 2006, at 242–3. The full transcript of the program is found in bin Laden, 2004, at 119–33. The title is a pun on the destruction of the bases (al Qaeda in Arabic) or camps in Khowst on 20 August 1998. It does not refer to the destruction of AQ, the organization. *Agence France Presse* reported that the streets of major Saudi cities were deserted.

⁴²⁹ The full interview was broadcast on Al Jazeera nine days after the 9/11 attacks on 20 September 2001. A full transcript of it is at bin Laden, 2004, at 158–78. Lawrence, ed., 2005, at 66–94, provided a more elegant translation.

superpower. Atwan introduced him, “I found him to be a man who is very modest in nature. He believes in every word he says. He does not lie. He does not exaggerate”⁴³⁰ The program host, Salah Najm, said that bin Laden was “the man that the United States has declared war on, and who has declared war in return. An attempt to assassinate him has cost several hundreds of millions of dollars that fell in the form of Cruise missiles on his camp in Khowst mountain in Afghanistan. It is the same camp that the United States called the base [al Qaeda].”⁴³¹ Jamal Ismail commented, “It goes without saying that he feels that he is under siege.... All that he is currently doing on Afghan territory is confined to addressing appeals, engaging in media-related activities, and issuing fatwas, along with a group of Afghan or other clergymen, promoting fighting, which the Taliban cannot ban or restrain, because this is enshrined in Koranic verses and traditions of the prophet.” The host interjected, “The base [al Qaeda] was destroyed, but Bin Ladin survived.”⁴³² Bin Laden concluded that he saw the emergence of a new generation that acknowledges the necessity for jihad. “The people who had the honor of engaging in jihad in Afghanistan, Bosnia-Herzegovina, Chechnya – we had such an honor – are certain that the nation nowadays can, God willing, engage in jihad against the enemies of Islam, particularly, the external arch-enemy, the Crusader-Jewish alliance.”⁴³³

The U.S. State Department designated AQ a Foreign Terrorist Organization on 8 October 1999.⁴³⁴ For the United States, this was the date that AQ and its members officially became terrorists. All those who refer to them as terrorists before this date are guilty of anachronism from an official U.S. perspective.

⁴³⁰ Bin Laden, 2004, at 121.

⁴³¹ Bin Laden, 2004, at 121. This of course reversed the chronology and made bin Laden appear like a victim of U.S. aggression. There was no mention yet of the East Africa bombings, and the strike on the Khost camps seemed disconnected to them and coming out of nowhere.

⁴³² Bin Laden, 2004, at 132.

⁴³³ Bin Laden, 2004, at 133. Lawrence, ed., 2005, at 80, translated this last quote, which came out in the middle of the interview rather than its end: “Know ... that it is right that whoever those whom God Almighty has blessed with *jihad* [should fight], as happened in Afghanistan, Bosnia, and Chechnya—and God blessed us with that, for we are certain that our *umma* today is able to wage *jihad* against the enemies of Islam, and especially against the greatest external enemy, the Crusader-Jewish alliance.” [Italics in original.]

⁴³⁴ See list maintained on the State Department website, available at <https://www.state.gov/foreign-terrorist-organizations/> (accessed on May 5, 2022).

family, to work as a project engineer in the Ministry of Electricity and Water. He moved his family to Doha in 1993. His nephew Abdul Basit also left Afghanistan for New York where he arrived on 1 September 1992 under the false identity of Ramzi Yousef. For the next few months, Basit looked for a target to bomb. KSM wired him \$660 to cover some of his expenses. Basit carried out the truck bombing of the World Trade Center on 26 February 1993 and flew back to Pakistan that evening.⁴⁴³

Neither KSM nor Basit had any contact with bin Laden or AQ. They were just freelance bombers for the cause of the global neojihad. After the World Trade Center bombing, Basit became a celebrity in the neojihadi world. He hid in Pakistan and recruited his childhood best friend Abdul Hakim Murad into his terrorist enterprise. They brainstormed about potential operations, and Murad, who had spent years in the United States becoming a pilot, suggested packing an aircraft full of explosives and dive bombing it into the Pentagon or CIA headquarters. In Karachi, they met Wali Khan Amin Shah (Osama Azmarai), bin Laden's childhood friend who had drifted apart from his friend after Jalalabad. Azmarai joined their enterprise. Basit taught Murad how to build bombs, but he lost partial sight in one eye when a detonator exploded in his face during a demonstration. KSM visited his nephew in Karachi but stayed away from the other two.⁴⁴⁴

KSM and Basit lacked a focused ideology but considered themselves at war with the United States and Christianity in general. They moved to Manila in July and August 1994 respectively. They dated local girls and brainstormed about possible operations. They experimented with miniature bombs to blow up commercial airliners. Azmarai joined them in early fall and moved in with a local bar girl. While working on their schemes, they learned that the pope was scheduled to come to the Philippines in mid-January 1995 and decided to assassinate him. They continued to refine their project to blow up a dozen American jumbo jet planes simultaneously over the Pacific with small devices smuggled on board timed to explode after the bomber had deplaned at a stopover. They called the plan Bojinka, Serbo-Croatian for "big noise." They successfully tested their device in a movie theater and then on a plane to Tokyo with a layover in Cebu where Basit got off after placing a bomb under the seat in front of him. One passenger was killed, but the pilot's heroics managed to save the plane. A slightly

⁴⁴³ McDermott and Meyer, 2012, at 40–8.

⁴⁴⁴ McDermott and Meyer, 2012, at 54–8.

larger device would have destroyed the plane. Just after Christmas 1994, Basit was mixing some explosive substance when it caught fire, partially burning down the apartment. Murad was caught by the police, and Azmarai and Basit temporarily escaped to Malaysia and Pakistan respectively but were tracked down and caught within a few months. They were tried and convicted in New York and sentenced each to 240 years in prison. KSM, who had only been in Manila for the summer, disappeared. He went home to Qatar and tried to join Suwaylim in Chechnya in 1995 but was unable to do so. In the fall, he went to Bosnia to work for an Egyptian charity in support of Bosnian Muslims. He returned home to Qatar before Christmas. The U.S. government finally located him there in the spring of 1996 and tried to arrest him for his role in the World Trade Center bombing. Apparently tipped off, he escaped to Karachi.⁴⁴⁵

In late 1996, KSM sought a meeting with bin Laden in Jalalabad. Both men knew about each other, KSM as the uncle of Abdul Basit and bin Laden as the man with resources. KSM pitched an idea based on Basit's idle discussions with Murad that never got past the idea stage. He suggested training pilots to hijack as many as ten planes in the United States and crash them into buildings. He would land a final plane in the middle of the country and explain to the American people why he had conducted this attack and how to prevent them in the future. Bin Laden thanked KSM for his idea and told him he would think about it. Although bin Laden was non-committal about such an ambitious plan, KSM intermittently returned to meet with AQ deputies Abu Hafs and Sayf al-Adl, assisted them with computer and media projects, and cultivated their friendship.⁴⁴⁶

It is hard to pin down precisely when the 9/11 conspiracy started. After the East Africa bombings, KSM became convinced that bin Laden was committed to attacking the United States. All indications point to March or April 1999. In early 1999, bin Laden held conversations about KSM's idea with his deputy Abu Hafs, who urged him to approve a more modest version of the project. In March or April 1999, bin Laden called KSM to Qandahar to tell him he had thought more about the proposal and liked its basic premise but wanted to trim it down to four or five planes in the United States, perhaps combined with simultaneous explosions over the Pacific if that could be arranged. He would support this more modest version of the proposal, which he referred to as the "planes operation." He asked KSM to join AQ, something that KSM had

⁴⁴⁵ McDermott and Meyer, 2012, at 59–114.

⁴⁴⁶ McDermott and Meyer, 2012, at 115–8; *9/11 Commission Report*, at 154.

resisted to seek another sponsor had bin Laden rejected the plan. Now that bin Laden accepted the plan, he pledged bayah to bin Laden.⁴⁴⁷

According to KSM, this is when the conspiracy started. In an interview with an Egyptian journalist, KSM said, “About two and a half years prior to the holy raids on Washington and New York ... the military committee held a meeting during which we decided to start a martyrdom operation inside America.”⁴⁴⁸ The timing would put it again around March – April 1999. However, the details of the airplane martyrdom operation did not seem to have been worked out: was it to be an explosion in the air, like the Bojinka Plot or something else? There is no indication that the March – April plot involved slamming airplanes into buildings yet. Bin Laden had selected Khallad (no longer on the boats operation), Nawaf al-Hazmi, Khalid al-Mihdhar, and Suhail al-Sharabi (Abu Bara al-Yemeni, one of bin Laden’s bodyguards)⁴⁴⁹ as his candidate suicide operatives for the operation.⁴⁵⁰ Al-Hazmi and al-Mihdhar were Saudi nationals, who applied for a U.S. visa from Jeddah in early April while Khallad applied for one from Sanaa. As the FBI reconstruction of the events leading to the 9/11 attacks noted, “[t]he first indication of concrete steps for the attacks were in April 1999 when Nawaf al-Hazmi and Khalid al-Mihdhar got their US visas.”⁴⁵¹

The FBI assessment might not be accurate. KSM stated that al-Hazmi and al-Mihdhar “had acquired U.S. visa[s] on their own accord in 1999 following the martyr death of their friend Hazam [Azzam] in the 1998 bombing of the U.S. Embassy in Nairobi, Kenya. They decided to obtain U.S. visas prior to traveling to Afghanistan to make themselves more attractive for any possible operations in the United States. Neither al-[Hazmi] [n]or al-Mihdhar were aware of the

⁴⁴⁷ *9/11 Commission Report*, at 154; McDermott and Meyer, 2012, at 137–8; *U.S. v. Zacarias Moussaoui*, E.D. Va. (Alexandria Division), No. 1:01cr455-LMB (2006), Khalid Sheikh Mohammed, DX 941, Substitution for the Testimony of Khalid Sheikh Mohammed (henceforth KSM statement), at 4.

⁴⁴⁸ Yosri Fouda and Nick Fielding, 2003, *Masterminds of Terror: The Truth Behind the Most Devastating Terrorist Attack the World Has Ever Seen*, New York: Arcade Publishing, at 114.

⁴⁴⁹ JTF-GTMO Detainee Assessment, Suhail al-Sharabi, ISN US9YM-000569DP, November 25, 2008, available at <https://wikileaks.org/gitmo/pdf/ym/us9ym-000569dp.pdf>. Throughout his book, Soufan seems to mistake al-Shurabi with Abdul Aziz bin Attash, Khallad’s younger brother, whose kunya (nom de guerre) was also al-Bara.

⁴⁵⁰ KSM statement, at 4–5.

⁴⁵¹ Hyon Kim, 2003, “Penttbom Timeline Briefing,” Memorandum for the Record, FBI Headquarters, December 11, 2003, at BUR-PEC-043636–43. The quote is from BUR-PEC-043638.

September 11 operation prior to getting the visas, nor were they directed by Bin Laden, Sheikh Mohammed, or any other al Qaeda operative to do so.”⁴⁵² On the other hand, the two Yemenis’ applications were rejected.⁴⁵³ KSM modified his plan in the summer of 1999 by splitting his operation in order to include the Yemenis. One group of operatives would crash airliners into buildings in the United States and the other, for those who could not get visas to the United States, would blow them up over the Pacific. All of this would occur near simultaneously.⁴⁵⁴ KSM, who lived in Karachi, moved to Qandahar part time to devote his time to this project and AQ’s media committee.⁴⁵⁵

Around September 1999, bin Laden sent 30 veterans, including the four candidates, to an exclusive special training session at Mes Aynak that spared no expense and focused on physical fitness and close quarter combat. At the end of the course, they went to Qandahar to meet with bin Laden.⁴⁵⁶ The evolution of the planes operation is vague. KSM reported that, by mid-1999, the plan was divided into two parts. The first one would be to crash planes into targets in the United States and the other would be to explode American airliners in the air over the Pacific, a smaller version of the Bojinka Plot.⁴⁵⁷

However, recently released documents from the Abbottabad raid that killed bin Laden in May 2011 give a different story. Among the papers were seven pages in bin Laden’s handwriting, dated 23 October 2003, with the heading, “The Birth of the Idea of September 11.”⁴⁵⁸ The first paragraph is, “Making the decision – 1.” It starts, “The idea came to me when I

⁴⁵² KSM statement, at 15.

⁴⁵³ National Commission on Terrorist Attacks Upon the United States Staff, 2004, *9/11 and Terrorist Travel*, Franklin, Tennessee: Hillsboro Press (henceforth *9/11 and Terrorist Travel*), at 13–14. Khallad was denied a visa from Sanaa.

⁴⁵⁴ KSM statement, at 5–6; *9/11 Commission Report*, at 156.

⁴⁵⁵ *9/11 Commission Report*, at 145–50, 153–4.

⁴⁵⁶ Al-Bahri, 2010, at 189–90; *9/11 Commission Report*, at 155, 157; Soufan with Freedman, 2011, at 96.

⁴⁵⁷ KSM statement, at 5–6.

⁴⁵⁸ The piece paper is undated, but it was found with six other pages torn from the same notebook. On the next page of the notebook (IMG-052993) is a date, which is Friday 6 Ramadan 1423 or 1424 (the last digit was written over). Since 6 Ramadan 1424 fell on a Friday, I took it as the date, corresponding to 23 October 2003. Nelly Lahoud believes that the date of the document is September 2002, see Nelly Lahoud, 2022, *The Bin Laden Papers: How the Abbottabad Raid Revealed the Truth about Al-Qaeda, Its Leader and His Family*, New Haven: Yale University Press, at 16.

heard about the plane piloted by al-Batouti. I turned to the brothers who were with me at the time, ‘Why didn’t he crash the plane into a financial tower?’”⁴⁵⁹

Bin Laden is obviously referring to the crash of EgyptAir 990 on 31 October 1999, in the Atlantic Ocean, south of Nantucket, right after it took off from John F. Kennedy International Airport.⁴⁶⁰ The crash was a mystery until the cockpit voice recorder (CVR) was recovered on 14 November 1999.⁴⁶¹ The CVR revealed that, when he was alone in the cockpit, Relief First Officer Gamal el-Batouti uttered “I rely on God” 11 times, and, after the second utterance, the flight data recorder showed that he manually put the airplane in a nose dive, from which the plane never fully recovered and crashed killing all 217 people on board.⁴⁶² On 16 November, the New York Times published a story that al-Batouti was suspected of crashing the plane.⁴⁶³ The story grew, but el-Batouti’s family pushed back against the allegation, causing an international commotion.⁴⁶⁴ This was a big news item in the Arab media starting 18 November 1999, and I suspect that this is when bin Laden heard about the allegation that al-Batouti crashed the plane into the Atlantic Ocean.

As he mentioned, this was the birth of the idea of crashing airplanes into financial buildings. He continued, “The idea grew and matured in my mind, and we began the planning. Nobody knew of this idea except Abu Hafs and Abu al-Khayr.”⁴⁶⁵ Abu al-Khair was Muhammad Abdallah Hasan Abu-al-Khayr, one of bin Laden’s bodyguards. So, from bin Laden’s own handwriting, it appears that the core of the 9/11 plan, crashing commercial airplanes into commercial towers was only conceived in mid-November 1999. From this beginning, the

⁴⁵⁹ CIA, November 2017 Release of Abbottabad Compound Material, IMG-040538, “The Birth of the Idea of 11 September,” available at https://www.cia.gov/library/abbottabad-compound/8F/8F496071D25B831EFBFD5299FBC0DF62_msoB4938.jpg.

⁴⁶⁰ National Transportation Safety Board, 2002, *Aircraft Accident Brief: EgyptAir Flight 990, October 31, 1999*, NTSB/AAB-02/01, Adopted March 13, 2002, Washington, D.C. National Transportation Safety Board (henceforth NTSB/AAB-02/01).

⁴⁶¹ NTSB/AAB-02/01, at 20.

⁴⁶² NTSB/AAB-02/01, at 24.

⁴⁶³ David Johnston and Matthew Wald, 1999, “Crew Member Suspected of Crashing Jet,” New York Times, November 16, 1999, available at <https://archive.nytimes.com/www.nytimes.com/library/national/111799egyptair-crash.html>.

⁴⁶⁴ Phil Reeves and David Osborne, 1999, “Pilot’s family furious at leaked allegations,” *The Independent*, November 19, 1999, available at <https://www.independent.co.uk/news/world/pilot-s-family-furious-at-leaked-allegations-1127168.html>.

⁴⁶⁵ IMG-040538.

planning grew with Abu Hafs and KSM. In Qandahar, a small group of senior AQ leadership held crucial meetings that worked out the details of the operation during Ramadan 1420H, which began on 9 December 1999. Also present were the five candidate pilots, who included al-Hazmi. Khallad was also present, but al-Mihdhar had left to be with his wife in Yemen.⁴⁶⁶ The four other pilots were four friends from Hamburg, whom Abu Hafs had immediately noticed upon their arrival: Egyptian Mohamed Atta, Yemeni Ramzi bin al-Shibh, Emirati Marwan al-Shehhi, and Lebanese Ziad Jarrah. These close friends from Hamburg had become committed to jihad together while studying there and wanted to go to Chechnya to fight the Russians. Someone advised them that the border to Chechnya was closed and instead they should go to Afghanistan for training while waiting for the border's re-opening. Atta, al-Shehhi, and Jarrah arrived in Afghanistan the last week of November while bin al-Shibh arrived two weeks later and learned that his friends had pledged bayah to bin Laden and urged him to do so as well.⁴⁶⁷

It is unclear how Abu Hafs spotted the friends from Hamburg. Al-Bahri, who was recovering from malaria in Qandahar as amir of one of AQ's guesthouses, remembered that the first three lived in town and not at a training camp. He became their instructor for a two-week security, intelligence, and special operations (kidnapping, assassination, and introduction to explosives) course. During Ramadan, the four friends tried to fast during the day. Al-Shehhi had just undergone a surgical operation to help him lose weight and should not have fasted. He did so anyway and got very sick. Al-Bahri spoon-fed him and nursed him back to health. Al-Shehhi had to return home to Dubai before the others and was issued a U.S. visa there on January 18, 2000.⁴⁶⁸

Bin Laden chose Atta to lead the attack, with al-Hazmi as his deputy. Jarrah, bin al-Shibh, and Atta met with Abu Hafs, who ordered them to enlist in flight training. Atta met with bin Laden, Abu Hafs, and KSM several times to discuss potential targets. Bin Laden wanted to hit military, political, and economic targets. They selected both towers of the World Trade Center, the Pentagon, the U.S. Capitol, and perhaps additional targets such as the White House,

⁴⁶⁶ Central Intelligence Agency, *11 September: The Plot and the Plotters*, June 1, 2003, CIA_000244-304, at CIA_000256.

⁴⁶⁷ *9/11 Commission Report*, at 160-6.

⁴⁶⁸ Al-Bahri, 2010, at 234-5; Soufan with Freedman, 2011, at 294-5, 317; *9/11 and Terrorist Travel*, at 15.

the Sears Tower, and a foreign embassy in Washington.⁴⁶⁹ The three Hamburg friends asked for military training and the opportunity to fight against Masoud's forces, but bin Laden insisted that they proceed as soon as possible to flight training.

The Qandahar Ramadan meetings of early December 1999, in retrospect, appear to be the first acts in furtherance of the planes operation, not al-Hazmi and al-Mihdhar getting their visas in April 1999 as they got these visas prior to knowing about the 9/11 operation. During these meetings al-Hazmi and al-Mihdhar were told they were being sent to the United States for flight training and an unspecified martyrdom operation in which aircraft would be flown into unspecified targets. After these Ramadan planning meetings, Khallad, al-Hazmi, and al-Sharabi then went to Karachi, where KSM instructed them for two weeks on Western culture, a few English expressions and how to behave in the United States. KSM was concerned that al-Hazmi's English was weak and al-Mihdhar spoke no English, but he could not do much about the matter as bin Laden had selected them and they already had a U.S. visa, which was hard to get for the AQ jihadis.⁴⁷⁰

Then KSM sent them all to Kuala Lumpur, where al-Mihdhar joined them, to familiarize themselves with airport and airliner security. From there, Khallad called Fahd al-Quso, a friend from the boat operation in Yemen, to bring \$36,000 that Khallad's father in Saudi Arabia had wired to Ibrahim al-Thawar (Nibras, the future *USS Cole* suicide bomber). Both al-Quso and Nibras flew to meet Khallad, gave him the money, and returned to Yemen. Khallad gave the money to al-Hazmi and al-Mihdhar, who flew to Los Angeles (I return to them in Part III of this report), while Khallad and al-Sharabi returned to Karachi.⁴⁷¹

After their training in Qandahar, Atta and bin al-Shibh went to Karachi for two weeks to meet with KSM. He briefed them on the habits of Americans and how to avoid the scrutiny of U.S. security agencies. He also provided them with flight schedules and information about the 50 states.⁴⁷² Eventually, all the friends returned to Hamburg and decided that it would be easier and

⁴⁶⁹ KSM statement, at 12–3; *9/11 Commission Report*, at 166–7.

⁴⁷⁰ KSM statement, at 16.

⁴⁷¹ Soufan with Freedman, 2011, at 238–40; *9/11 Commission Report*, at 157–9. The figure of \$36,000 is from al-Quso's interrogation by Soufan, while Khallad claimed it was \$12,000, see *9/11 Commission Report*, FN 61, at 494. The origin of this cash is unknown, whether it was sent to Khallad's father or whether he raised it himself. However, it helped finance the 9/11 terrorists.

⁴⁷² CIA_000256.

cheaper to take flight training in the United States. Atta got his visa on 17 May and Jarrah his on 25 May, both from the Berlin U.S. consulate. Bin al-Shibh's multiple applications for a visa were rejected, and he was invited to be the coordinator of the project, the link between Atta and KSM.⁴⁷³

Al-Shehhi arrived in the United States on 29 May, Atta on 3 June, and Jarrah on 27 June. They all enrolled in flight school in Florida, Atta and al-Shehhi together and Jarrah at another school.⁴⁷⁴ In the spring of 2000, bin Laden canceled the Pacific portion of the planes operation as too complex.⁴⁷⁵ At this point, there were only three potential pilots to conduct the ambitious planes operation, as al-Hazmi had failed to progress in English and bin al-Shibh could not get a U.S. visa. In the spring of 2000, just after al-Faruq camp was re-opened, Abu Hafs spotted on a trainee application form that a Saudi was already a licensed commercial pilot, trained in the United States. He was Hani Hanjour, a veteran Arab Afghan. Abu Hafs interrupted his training after two weeks and sent him straight to KSM in Karachi. KSM trained him in communication tradecraft for about two or three days. KSM told Hanjour that he wanted him as the most skilled pilot in order to strike the Pentagon, a tough target because it was not a tall building. Hanjour returned home on 20 June. He applied for a U.S. student visa in Jeddah on 25 September and went to Dubai to meet Ali Abdul Aziz Ali (Ammar al-Baluchi), KSM's cousin and facilitator for the plot from Dubai. Hanjour flew to the United States on 8 December and went to San Diego to meet with al-Hazmi. They left San Diego for Mesa, Arizona, where Hanjour took a flight refresher course and started training on multi-engine planes. Atta, al-Shehhi, and Jarrah in Florida got their commercial pilot licenses in mid-December 2000. They all began training to fly large jets on flight simulators.⁴⁷⁶

The 9/11 operation was highly compartmented. To the Egyptian journalist, KSM said, "They [the AQ hijackers] knew they were in for a martyrdom operation. But to prevent any leakage of information, they were not informed of many details. We told them that brother Abu

⁴⁷³ *9/11 Commission Report*, at 167–8; *9/11 and Terrorist Travel*, at 15–6; KSM statement, at 12–3, 22.

⁴⁷⁴ *9/11 and Terrorist Travel*, at 16–7; *9/11 Commission Report*, at 215–25.

⁴⁷⁵ *9/11 Commission Report*, at 159; KSM statement, at 6.

⁴⁷⁶ KSM statement, at 23–4 (KSM testified that Hanjour met al-Hawsawi, not his cousin, in Dubai); *9/11 Commission Report*, at 225–7; *9/11 and Terrorist Travel*, at 23.

Abdu'l' Rahman [Mohammed Atta] would provide them with details at a later stage.”⁴⁷⁷ To his interrogators, KSM elaborated that the operational plan evolved over time and was not finalized until late August 2001. KSM took credit for the idea of using commercial airliners as missiles, in contradiction to what bin Laden wrote in his notebook in 2003. However, they both agreed that this tactic of crashing planes into financial buildings was not communicated to the pilots until November-December 1999, probably at the Ramadan 1420H Qandahar meetings. As mentioned above, the Pacific portion of the operation was cancelled in mid-2000. The final selection of the targets was left to the discretion of the pilots and Atta informed bin al-Shibh about them in July 2001. Knowledge of the operation was limited to the actual participants, and even so the muscle hijackers were not informed of the tactic and targets until Atta had finalized everything in August 2001. Up to that time, they knew they were involved in a martyrdom operation in the U.S., but nothing more. The four logistic personnel in Dubai, who handled logistical, financial, and travel arrangements only knew that they were involved in an AQ operation against the United States, but no more.⁴⁷⁸

Even bin Laden stressed the importance of secrecy and strict compartmentation in AQ external operations. “Only the person in charge of external operations and those executing them should know about them; like what happened on September 11, when all the brothers were informed about it just before the operation, except for Mohammed Atta and Ziad al-Jarrah.”⁴⁷⁹ This strict compartmentation is important to remember in this litigation because some plaintiffs’ experts believe that KSA officials knew about the 9/11 operation and assisted the hijackers in the United States. The AQ principle of strict compartmentation, also applied to other AQ operations, implies that this could not be true.

The tactic of using a commercial airliner as a missile required a group of militants to seize the airliner and control its passengers to protect their pilot. This group would later be called

⁴⁷⁷ Fouda and Fielding, 2003, at 136.

⁴⁷⁸ KSM statement, at 24–9.

⁴⁷⁹ Usama bin Laden, early 2010, letter to Hajji Uthman (Mustafa Abu al-Yazid, better known as Sheikh Saeed) and Sheikh Mahmoud (Jamal Ibrahim Ishtiwi al-Misrati, better known as Atiyah Abdul Rahman al-Libi), PDF-004225, CIA November 2017 Release of Abbottabad Compound Material, at https://www.cia.gov/library/abbottabad-compound/96/96FA650E29F645E8520643BFB576E5EE_محمود_والشيخ_عثمان_الحاج.pdf. Bin Laden probably meant that the pilots knew about the tactics and targets of the 9/11 operation but not the muscle hijackers until the very end.

“the muscle.” In late 1999 and throughout 2000, most volunteers wanted to fight in Chechnya. So did the vast majority of those who would become the muscle. On their way to Chechnya, in Turkey, they found the road through Georgia closed. The person who sheltered them in Turkey contacted Abu Zubaydah, the outside coordinator for Khalden camp, who agreed to train them at Khalden until Suwaylim could incorporate them in his rank when conditions improved. They arrived at Khalden and trained there until it closed permanently in 2000. By that time, AQ had gotten permission from the Taliban to open the new al-Faruq camp. Two volunteers finished their training at Khalden and were later recruited from AQ guesthouses in Afghanistan; some started their training at Khalden and finished it at al-Faruq; and about seven just went to al-Faruq, where they were spotted and recruited. Of the estimated 700 to 1,500 trainees at al-Faruq after it re-opened, only about 100 were invited to formally join AQ, increasing its total membership to at most 300 people.⁴⁸⁰ The reason that 12 of the eventual 13 muscle men were Saudis was not due to KSA complicity, but simply the facts that the Saudis constituted the vast majority of the newcomers and could easily get visas for the United States. Neojihadis from other nations were routinely turned down when they sought U.S. visas.

The muscle men came to Afghanistan in friendship or kinship (two sets of brothers) clusters. Four came from three towns in the al-Baha region of Saudi Arabia and were in their twenties, unemployed, and without an education. Five came from the Asir province of the kingdom and had a university education. They all wanted to go to Chechnya, which undermines the claim that they had been sent to Afghanistan by AQ recruiters in the kingdom. KSM later claimed that they were recruited based on their willingness to become martyrs and demonstrable patience because he expected the preparation for the operation to take a long time. Once spotted, they were sent to bin Laden, who would assess them quickly, ask those selected to immediately swear bayah to him, and send the successful candidates to KSM for further training in tradecraft and record a martyrdom video. After this training, KSM would give about \$2,000 to each for them to return to Saudi Arabia to obtain a U.S. visa. He instructed them to come back to Afghanistan afterwards for further training.⁴⁸¹

⁴⁸⁰ Hamid and Farrall, 2015, at 259–62; *9/11 Commission Report*, at 231–4.

⁴⁸¹ *9/11 Commission Report*, at 231–5.

flew from Riyadh to Los Angeles, transiting through New York. He did not recall whether he went with someone else, but he remembered his difficulties of traveling without any help and concluded that he was probably alone. Upon arrival, he made his way to a motel, where he rested for a long time until he regained some energy. He went on his own to the mosque, where he met the imam, Fahad al-Thumairy. Al-Mersal believed that it was the King Fahad Mosque, but it could have been the Ibn Taymiyyah Mosque. During his stay in Los Angeles, he simply assisted al-Thumairy, who was very busy with little time for him. Al-Thumairy gave him a book to learn some English on his own. As al-Mersal remembered, “I expected him to educate me a bit about the area, about the shopping markets, about landmarks. However, he conducted his relationship with me in a formal way. And, therefore, I didn’t want to embarrass him by imposing myself on him.” He was not aware that al-Sadhan and al-Sudairy were assigned to San Diego during his own mission.⁶³¹

Al-Mersal was again selected for the Ramadan imamate program in 1420H for one of the mosques in San Diego. At the deposition, he did not remember the name of the mosque. This time, he accompanied his former teacher al-Jaithen, who was suffering from severe chronic headaches. It was al-Jaithen’s first trip to the United States, and he had been assigned to a mission in another state. They flew to Los Angeles and transited through New York. They went to a motel in Los Angeles. Al-Mersal remembered that he went to pray at the King Fahad Mosque and met al-Thumairy. He did not remember whether al-Jaithen was with him. They did not stay in Los Angeles for long and proceeded to San Diego, where they shared the same room in a motel for a few days. Al-Jaithen had trouble arranging for a direct flight to his destination, but he left after a few days. Al-Mersal did not remember how or when al-Jaithen left. He had no recollection of any specific worshipper at the mosque, but believed it served a Kurd community. He did not remember meeting al-Bayoumi and did not know his name then. He read his name in the media much later. He remembered reciting the Taraweeh, al-Isha’a, and Maghrib prayers during his mission. His only other memory from San Diego was visiting the zoo. He returned to Riyadh at the end of his mission. Al-Thumairy may have called him after his return to Riyadh, but he did not remember.⁶³²

⁶³¹ Deposition of Majed al-Mersal (henceforth Mersal deposition), May 27, 2021, at 12, 14–42, 72–137. The quote is at 104.

⁶³² Mersal deposition, May 28, 2021, at 172–251, 261–2.

C. Saudi Officials

The plaintiffs also made some allegations involving Saudi officials Khalid al-Sowailem and Musaed al-Jarrah. This part of the report examines the evidentiary basis about these claims.

a) Khalid al-Sowailem

In early 2000, Khalid Ibrahim Abdul Aziz al-Sowailem was a 37-year-old, who had graduated from Imam University in 1984 and was immediately recruited as a preacher by the General Presidency of Scholarly Research, IFTA, Dawah and Guidance.⁶³³ *Ifta* or *'afta* is an Arabic verb meaning giving a fatwa and shares the same root as fatwa. In 1988–9, al-Sowailem took advanced English language and diplomatic behaviors courses at the Diplomatic Studies Institute.⁶³⁴ He was promoted rapidly, assigned as director of the Dawah office in Djibouti for three years.⁶³⁵ He was incorporated into the MoIA when it was created in 1993 and partially replaced the general presidency.⁶³⁶ In 1994, he was again promoted to director of the MoIA office in Medina, with the rank of 12.⁶³⁷ In August 1995, he was appointed as director of the MoIA Dawah office in the United States for a term of five years.⁶³⁸ His secondment was extended three times to June 2003.⁶³⁹

At this point, it is important to distinguish the MoIA Dawah (IFTA) Office in Washington from the Saudi Embassy's Islamic Affairs Department in Washington. They can be a source of confusion. The Islamic Affairs Department at the embassy was established in 1987, prior to the creation of the Ministry of Islamic Affairs (MoIA) in the kingdom in 1993. The embassy's Islamic Affairs Department was a sort of cultural and public relations outreach for students, universities, U.S. mosques, as well as helping people go to Saudi Arabia for hajj or

⁶³³ KSA0000002333; KSA0000002405; KSA0000002397; KSA0000002422–6.

⁶³⁴ KSA0000002541; KSA0000002542.

⁶³⁵ KSA0000002556.

⁶³⁶ KSA0000002397; KSA0000002413–4.

⁶³⁷ KSA0000002407; KSA0000002408.

⁶³⁸ KSA0000002612; KSA0000002613–4. He arrived in the U.S. in December 1995, see KSA0000002599.

⁶³⁹ KSA0000002564; KSA0000002568; KSA0000002572.

umrah. It had no responsibility to oversee KSA government employees.⁶⁴⁰ The MoIA's office in Washington was a Dawah office and not the embassy's Islamic Affairs Department. The embassy's Islamic Affairs Department had nothing to do with the ministry of the same name.⁶⁴¹ The embassy's department was not part of the MoIA but of the Ministry of Foreign Affairs. Although housed at the embassy, the Dawah or IFTA office was independent of the embassy, had its own budget, did not report to the ambassador, and came under the MoIA in the kingdom, not the ministry of foreign affairs. Its stationery used a different letterhead, which clearly stated that it was the IFTA (all in cursive capital letters) office.⁶⁴² During the relevant time for this litigation, the chief of the Dawah office or IFTA office was Khalid al-Sowailem, who reported to the Deputy Minister of Islamic Affairs, Abdul Aziz al-Ammar.⁶⁴³ The Dawah office dealt with MoIA employees either in the Ramadan imamate program or those delegated to the Dawah office in the United States, like al-Thumairy, al-Sadhan, or al-Sudairy.⁶⁴⁴ Al-Sowailem was not so much the deployed preachers' supervisor (although he was certainly superior to them in rank), but an administrative conduit to the MoIA who transmitted to the ministry the employees' administrative requests and vice versa.⁶⁴⁵

The Dawah office in Washington carried out special programs for Ramadan. For instance, for Ramadan 1419H, al-Sowailem informed Ambassador Prince Bandar that the MoIA had sent 14 preachers "to perform the duties of imam and to guide Muslims in America during the month of Ramadan. Starting with the gracious instructions to spread Dawah, in accordance with the course of our wise government of communicating with Muslims, and to solidify cooperation between the Islamic organizations abroad. Also, the office supervised the

⁶⁴⁰ See the deposition of Khalil al-Khalil, June 14, 2019, at 18–26, when he testified that the Islamic Affairs Department at the embassy was established on June 16, 1987, as part of the embassy and the Ministry of Foreign Affairs. See section II B (d) above, which documents the creation of the MoIA on 10 July 1993.

⁶⁴¹ Deposition of al-Khalil, at 34. See also deposition of Mussaed al Jarrah (henceforth Jarrah deposition), June 17 and 18, 2021, *passim*. See also deposition of Zeinab Afifi, June 23, 2021, *passim*, but especially at 15–8.

⁶⁴² See for instance, KSA0000008440.

⁶⁴³ Jarrah deposition, June 17, 2021, at 40, 136–7; Thumairy deposition, June 28, 2021, at 115; KSA0000002692.

⁶⁴⁴ As illustrated by the letters issued from the Dawah (IFTA) Office, like for instance, KSA0000001234, appointing Fahad al-Thumairy as a preacher to work in Los Angeles, or KSA0000001247, dealing with Ramadan preachers.

⁶⁴⁵ Thumairy deposition, *passim*; Sadhan deposition, *passim*; Sudairy deposition, *passim*.

distribution of dates ... which reached around 35 tons; all of which has been distributed in cooperation with [the] Islamic Affairs Department at the embassy, among the most important centres, and a large number of schools, prisons and individuals.”⁶⁴⁶ In other years, the Dawah Office also gave monetary donations to “feeding the fasting” for Ramadan⁶⁴⁷ as well as distributing Qurans, Islamic books, and dates.⁶⁴⁸

Al-Sowailem returned to Saudi Arabia in 2003 and became director general of the Dawah Abroad Department.⁶⁴⁹ He was promoted to director general of the MoIA division in the eastern region of Saudi Arabia and then director of the Dawah Inside Department.⁶⁵⁰ He died before being deposed.

b) Musaед al-Jarrah

Musaед al-Jarrah was 39 in the first half of 2000. He had graduated from Imam University in 1986 with a bachelor’s in Islamic economics.⁶⁵¹ He was hired as an administrator for Imam University for the next three years. In late 1990, he was detached from the university and attached to the Saudi Embassy in Washington, D.C., where his assignment was regularly extended until 2006, when he finally returned to Saudi Arabia.⁶⁵² In 1995, during his time at the embassy, he earned a Master of Arts in education and human development from George Washington University in Washington, D.C.⁶⁵³ Throughout his 15-year attachment at the Saudi Embassy, al-Jarrah was employed in the embassy’s Islamic Affairs Department, where he started out as a financial officer, then as the supervisor of relationships and protocol, then as its deputy, and finally as its chief.⁶⁵⁴ His salary was still being paid by Imam University with some allocations supplemented by the embassy.⁶⁵⁵

⁶⁴⁶ KSA0000007584.

⁶⁴⁷ KSA0000007568; KSA0000007566; KSA0000007570.

⁶⁴⁸ KSA0000007564; KSA0000007561; KSA0000007560; KAS0000007558; KSA0000007957.

⁶⁴⁹ KSA0000002399.

⁶⁵⁰ KSA0000002333.

⁶⁵¹ KSA0000008616; KSA0000008609.

⁶⁵² KSA0000008616; KSA0000008645.

⁶⁵³ KSA0000008611.

⁶⁵⁴ KSA0000008594–6.

⁶⁵⁵ Jarrah deposition, June 17, 2021, at 60–2.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁷¹⁸

Later, on 23–4 June 2004, two FBI agents canvassed local hotels and motels to discover where the future hijackers may have stayed during their first three weeks in Los Angeles. They canvassed the Culver City Motel, Deano’s Motel, the Sunburst Motel, the Ramada Limited Motel, the Half Moon Motel, the Century Wilshire hotel, the Best Western Royal Palace, the Circle K Motel, and the Vista Motel, but could not find a trace of the hijackers’ stay during that time.⁷¹⁹

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁷²⁰

iii. Showing a Grocery Store to the Future Hijackers

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁷¹⁸ [REDACTED].

⁷¹⁹ EO14040-000896–7.

⁷²⁰ [REDACTED] FBI000204–7, at FBI000207; [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] 721

b. Al-Bayoumi's First Meeting with the Future Hijackers

The next sighting of the Saudi newcomers involves two people who drove to Los Angeles from San Diego, Omar al-Bayoumi and Kaysan Morgan. The day can be identified with precision because a dated document survived from that day, namely the renewal form of al-Bayoumi's passport.⁷²² Although most documents date this day as 1 February 2000, the renewal form clearly states that the request was filled out on 24/10/1420H⁷²³ and al-Bayoumi's written request for the renewal of his passport and that of his family was also dated the same day.⁷²⁴ This translates to 31 January 2000. The passport was indeed issued the next day, on 1 February 2000. Al-Bayoumi's application had his picture attached to it, and the account of that day indicates that he took the picture on the morning of the day of the visit to the consulate. Since this document is the anchor around which the date of this day is constructed, it suggests to me that the visit to the consulate was 31 January 2000 and not 1 February as most documents in the discovery material assume.

Furthermore, in response to a request for information, the Saudi consul general in Los Angeles cabled the Saudi embassy on 21 July 2003 the following account of their records: "The above-mentioned person [al-Bayoumi] came to the Consulate in Los Angeles and met with our colleague Abdullah al-Awad on 24/10/1420 AH (1/31/2000 AD). He asked for a renewal of his expired passport and his family as well. He presented a copy of his I-20 and a letter from Keller Graduate School of Management, San Diego, confirming his enrollment in this school. The Consulate issued passports to the said person, his wife Manal and his children Emad, Bayan and Firas on 25/10/1420 AH (2/1/2000 AD)."⁷²⁵ This again suggests that the date of the visit was 31 January 2000, and that al-Bayoumi's passport was issued and mailed the next day. As shown in

⁷²¹ [REDACTED].

⁷²² KSA0000006648-9.

⁷²³ KSA0000006648.

⁷²⁴ KSA0000006649.

⁷²⁵ KSA0000006642-3.

the analysis section of this report, the telephone analysis of al-Bayoumi's calls to the consulate does not allow us to distinguish between these two dates.

There are many versions of what happened that day. All the versions agree on a few things: al-Bayoumi and Morgan drove from San Diego to Los Angeles; they went to the Saudi consulate there; they ate at a halal restaurant; they drove back to San Diego that evening. To these agreed-upon facts, it can be added that they met al-Hazmi and al-Mihdhar at the halal restaurant. The rest of the facts are a little fuzzy, mostly because of the inconsistent versions given by Morgan, which undermine his declaration that "my core memories of my interaction and relationship [with Mr. al-Bayoumi] remain indelible."⁷²⁶

The context of the first meeting between al-Bayoumi and the future hijackers is very important to remember. As noted previously, al-Hazmi and al-Mihdhar were already on their way to San Diego before they ever met al-Bayoumi. San Diego was their pre-arranged destination where they were supposed to learn English and for al-Hazmi to become a pilot. Because the original meeting between al-Bayoumi and the two would-be hijackers is so critical to this litigation, it is important to sort out the inconsistencies among these versions. To do so, the next three subsections lay out the various accounts provided by al-Bayoumi, Morgan, and Mana, who interacted with the San Diego visitors at the Saudi consulate.

i. Al-Bayoumi's Version

Al-Bayoumi gave four versions of events that were generally mutually consistent. The **first** one was provided to British Metropolitan Police Service (MPS) when he was arrested on 20 September 2001 for a week and released on 28 September 2001.⁷²⁷ During his detention, the MPS extensively interviewed al-Bayoumi between 22 and 28 September. He was in the presence of his solicitor, and FBI agents were not allowed to be present.⁷²⁸

⁷²⁶ Morgan declaration, at 2. This declaration was drafted by the plaintiffs' lawyers, see Morgan deposition, at 43–7. I am not sure whether the word "indelible" was from Morgan or the plaintiffs' lawyers, but this popular conception of how memory works is not scientifically accurate. Having a memory is a very complex phenomenon, but it is not indelible in any meaningful sense of the term.

⁷²⁷ FBI (redacted) EC, PENTTBOMB, to confirm arrests and searches by New Scotland Yard, September 22, 2001, EO14040-002288–92; FBI (redacted) EC, PENTTBOMB, September 28, 2001, at EO14040-002307–09.

⁷²⁸ FBI (redacted) EC, PENTTBOMB, October 3, 2001, EO14040-002425–31.

KSA an agent in the field to support and assist sworn enemies of the royal family, like AQ members abroad.

e. The King

King Fahad bin Abdul Aziz al-Saud, who was king throughout the period relevant to this litigation, was also opposed to bin Laden and was the subject of a long bin Laden statement, which accused him of betraying Islam and Muslims around the world, bowing to American interests, and asked him to tender his resignation. It is again unlikely that King Fahad would have asked a senior Saudi official to direct agents in the United States to assist his enemies, the future hijackers in California.

f. The Crown Prince

Prince Abdallah bin Abdul Aziz al-Saud was Crown Prince for the 20 years relevant to this litigation but assumed more power in the kingdom as King Fahad suffered an incapacitating stroke in November 1995. As Crown Prince Abdullah has a strong reputation for piety, bin Laden refrained from criticizing him hoping that Crown Prince Abdullah might rehabilitate him upon becoming king.¹¹³² However, bin Laden was mistaken. Crown Prince Abdullah was strongly opposed to bin Laden and, during hajj 1996, tried to negotiate with Sudanese President Omar al-Bashir, bin Laden's extradition to the kingdom for prosecution.¹¹³³ Likewise, two years later, in the summer of 1998, Crown Prince Abdullah dispatched his nephew, Prince Turki, to negotiate bin Laden's extradition with Mullah Omar. This suggests that it is very unlikely that Crown Prince Abdullah would have ordered a senior Saudi official to direct someone to assist al-Hazmi and al-Mihdhar in the United States.

So, the Saudi royal family, which grew very hostile to bin Laden and AQ both in the kingdom and abroad as a very serious threat to its rule, was in direct control of the royal court (the king and the crown prince), the ministries of interior, defense and aviation, and foreign affairs, as well as the domestic and foreign intelligence departments, and its embassy in the

¹¹³² Bin Laden realized his error after 9/11 and published a blistering indictment of Crown Prince Abdullah online in December 2004. See Lawrence, ed., 2005, at 245–75.

¹¹³³ See the account of this meeting, by eyewitness Prince Turki, 2021, at 163–4.

United States, with actual royal princes holding the top positions of each of these entities. The one ministry that did not have an al-Saud at its head is the subject of the next subsection.

g. Ministry of Islamic Affairs, Waqfs, Preaching and Guidance

By tradition, the head of the Saudi religious establishment is not a member of the Saudi royal family. As documented in section II B of this report, the MoIA was created in 1993 by the royal family as an institutional reaction to the Sahwa movement and neojihadi militants in Saudi Arabia and to foster religious loyalty to the royal family. Its trustworthy leaders selectively filled its ranks with supporters of Sheikh Rabi al-Madkhali and religious scholars and preachers loyal to the Saudi family, not with the Sahwa or people sympathetic to neojihadi militants that were against the royal family.¹¹³⁴ The MoIA was and is in charge of Dawah abroad and sent preachers around the world to spread the Saudi quietist version of Salafism, which emphasizes loyalty to a legitimate Muslim leader, like the al-Saud family. It was and is strictly a religious institution and not an intelligence agency and did not employ intelligence agents. Of course, MoIA employees, like any Saudis, were expected to inform on dissidents at home and abroad. This is important in this litigation since there are a lot of allegations against several MoIA employees, including Sheikh Fahad al-Thumairy, the imam of the King Fahad Mosque in Los Angeles, and the Ramadan imams. Given the MoIA's loyalty to the Saudi ruling family, it would be very unlikely that a senior MoIA official would have directed on behalf of the ministry and therefore the KSA some subordinate in the United States to assist AQ members, as AQ was the enemy of the al-Saud family.

The notion that the MoIA was supportive of AQ is based on ignorance of the subtleties of religious beliefs in Saudi Arabia. It lumps all Saudi Salafis in the same, mutually supportive, and extremist basket, which is apparently how some of the plaintiffs' experts contrast alleged Muslim "moderates" against Saudi "extremists." Such a view ignores the domestic reality of Saudi Arabia, which Encore task force members apparently believed to be unified in its understanding and practice of Islam. As Part II documents, within Saudi Salafi circles there were various factions that either supported or rejected the Saudi royal family, especially in its relation to the West and the United States. The Sahwa and neojihadis rejected the royal family, while followers

¹¹³⁴ Lacroix, 2011, at 207–21.

of traditional religious scholars and ulema and Sheikh Rabi al-Madkhali were loyal to it. These traditional Salafis are some of the strongest opponents of the neojihadis, as can still be seen online in the heated disputes between these two sides on various websites and chatrooms, where they accuse each other of being either “palace ulema” and “dollar scholars” (for the followers of Sheikh al-Madkhali) or “terrorists” (for neojihadi sympathizers). The MoIA was created as an institutional support for the royal family to fight the Sahwa and neojihadis in the kingdom. It is strange to argue that it would support neojihadis abroad when it fought them at home.

The first MoIA Minister was Sheikh Abdullah al-Turki, who over the years had demonstrated his absolute loyalty and devotion to the royal family.¹¹³⁵ He even accompanied GID Director Prince Turki to Qandahar in June 1998 to provide the religious justification for bin Laden’s extradition to Saudi Arabia for prosecution.¹¹³⁶ He was also part of the Saudi-Taliban committee trying to work out the details of bin Laden’s extradition on 13 July 1998.¹¹³⁷ After his two-year term and four-year renewal term expired in 1998,¹¹³⁸ he was replaced by Sheikh Saleh bin Abdul Aziz al Ash-Sheikh, a member of the al Ash-Sheikh family, the descendants of Muhammad bin Abdul Wahhab, the 18th century religious scholar that are closely allied with the al-Saud royal family and are intermarried with it. This politico-religious alliance between the al-Saud and the al Ash-Sheikh families is the cornerstone of the modern Saudi state.

Although the MoIA does not seem to have a dedicated intelligence division, it seems to keep tabs on anti-Saudi dissidents. U.S. intelligence believed, “For the most part, the Islamic Affairs/Da’wah Division manages its intelligence collection activities on Saudi-Americans, dissidents and NGOs, independent from the GIP [GID] or the Mabathith.”¹¹³⁹ However, there is no evidence that it had ever carried out any type of intelligence operations, either at home or abroad, for which its employees are of course not trained either during their education or at the

¹¹³⁵ Lacroix, 2011, at 209.

¹¹³⁶ Prince Turki, 2021, at 166–8; Sheikh Abdullah al-Turki at his deposition, September 15, 2018, at 348–52, did not remember the incident and could not confirm or deny it.

¹¹³⁷ See the minutes of the Riyadh meeting in Prince Turki, 2021, at 169–71.

¹¹³⁸ Sheikh al-Turki deposition, September 15, 2018, at 336–40.

¹¹³⁹ FBI and CIA, Collaborative Intelligence Assessment, *Assessment of Saudi Arabian Support to Terrorism and the Counterintelligence Threat to the United States*, December 2004, EO14040-003414–42, at EO14040-003427. As shown below, this statement (as does the FBI to this day) confuses the Saudi embassy’s Islamic Affairs Department, which was part of the Ministry of Foreign Affairs, and the Washington Da’wah or IFTA Office, which was part of the MoIA and has little to do with the embassy’s Islamic Affairs Department.

ministry. Serving as a clandestine support network for neojihadis would have been such an intelligence operation. I have found no evidence that the MoIA was ever involved in intelligence operations abroad.

h. 2004 Joint FBI-CIA Collaborative Intelligence Assessment

In December 2004, a joint FBI-CIA collaborative intelligence assessment concluded that there was no evidence that the KSA government or the royal family knowingly provided support for the 9/11 attacks, but it raised the possibility that AQ or its sympathizers might have infiltrated the KSA government.¹¹⁴⁰ Its executive summary stated, “There is evidence that official Saudi entities, chiefly the Ministry of Islamic Affairs and associated nongovernmental organizations (NGOs), provide financial and logistical support to individuals in the United States and around the world, some of whom are associated with terrorism-related activity. The Saudi Government and many of its agencies have been infiltrated and exploited by individuals associated with or sympathetic to al-Qa’ida.”¹¹⁴¹

Unfortunately, the body of the report is quite vague, seems to lump all Salafis into one extremist basket, and ignores the major differences between traditional Salafi teachings and neojihadi doctrines, as outlined in Part II of this report. It does not appreciate that the MoIA was specifically created in 1993 to fight off this neojihadi challenge and that Saudi charities were far more tightly controlled by the Saudi government around the same time, leading bin Laden to advise his supporters to contribute to non-Saudi charities. This appreciation of internal Saudi politics came from the work of Arabic speaking scholars, who published in the early 2010s, after the publication of this joint assessment.

The only paragraph in the assessment with specific information stated, “While senior Saudi royals oppose al-Qa’ida, it is likely that at least some royal family members, government officials, or other prominent citizens share al-Qa’ida’s anti-American sentiments on an individual basis and support organizations with ties to al-Qa’ida or other extremist organizations. The CIA and FBI have no information indicating that the Saudi Government as an institution provides

¹¹⁴⁰ FBI and CIA, Collaborative Intelligence Assessment, *Assessment of Saudi Arabian Support to Terrorism and the Counterintelligence Threat to the United States*, December 2004, EO14040-003414-42.

¹¹⁴¹ EO14040-003416.

financial or other support to al-Qa'ida. The CIA has limited, fragmentary intelligence suggesting that two individuals – one senior and one minor member of the Saudi royal family – may have provided financial support to al-Qa'ida. In both cases, we have no information to suggest that other members of the Saudi Government or royal family were aware of these activities. A limited body of uncorroborated CIA reporting from (redacted) separate sources suggests (redacted) the youngest of (redacted) full brothers, and Turki Bin Fahd Jiluwi, have had contact with individuals tied to al-Qa'ida and other terrorist organizations. The specific nature of their contacts is unknown.”¹¹⁴²

The assessment is careful to note that this information is uncorroborated. The senior prince is said to be the youngest of full brothers. The only senior full brothers that are usually so referred to are the seven Sudairy brothers, who include the present King Salman (formerly Governor of Riyadh), and former King Fahad, Prince Nayef (Interior Minister), and Prince Sultan (Defense Minister). Their younger brother was Prince Ahmed, who at the time was deputy interior minister, under his full brother Prince Nayef. At the ministry, he oversaw the Saudi provinces and especially the restive Eastern Province. He was the one who had met with bin Laden in 1990 and turned down bin Laden's help to fight the Iraqis.¹¹⁴³ He indeed had a contact with bin Laden, but it was not a positive one. Bin Laden felt humiliated by Prince Ahmed's rejection. It is unclear whether this was the contact referred to in the FBI-CIA assessment. Prince Ahmed did not seem to have any foreign responsibility that would have connected him to anyone in Southern California. His older brother Prince Nayef, his superior, was strongly against bin Laden, as shown above, and would not have sanctioned his younger brother to help al Qaeda on behalf of the kingdom after 1991.

Prince Turki bin Fahad Jiluwi hails from a minor branch of the al-Saud family. He was a leader of an NGO in the Eastern Province of the kingdom and not part of the government. Even if he contributed money to AQ, he would not be in a position to instruct Saudi officials in foreign lands. So, if even as a hypothetical, the assessment's suggestions that Prince Ahmed or Prince Turki bin Fahd Jiluwi were AQ sympathizers or even contributors were accurate, they would still not be in a position to instruct anyone at the KSA Embassy in Washington, D.C., or in Southern California to assist the future hijackers there.

¹¹⁴² EO14040-003418.

¹¹⁴³ See section II B (a) of this report.

Commission records on al-Bayoumi. It is customary to become acquainted with a subject before passing an opinion on it within a reasonable degree of certainty, let alone a high degree of confidence.

Furthermore, it is quite a leap to go from helping fellow goers in getting an apartment to making a claim about catering to their “spiritual affairs.” As just mentioned, there is no evidence in the discovery material that al-Bayoumi played the role of an imam catering to his acquaintances’ spiritual affairs. It is difficult to find the basis of this claim, let alone opine with a high degree of confidence. Furthermore, there is no evidence that al-Bayoumi counseled the future hijackers, or supported them financially, or assimilated them to the local community. The 17–9 February 2000 party was not designed to assimilate them into the Muslim community but a farewell party for Sheikh Barzanjee and Khalid al-Yafai, who were about to leave the United States.

All the errors in his report and his striking claim that al-Bayoumi is a Saudi Wahhabi propagator catering to people’s spiritual affairs discredit Dr. Meleagrou-Hitchens’ opinion to any reasonable degree of certainty, let alone high confidence. My opinion with a reasonable degree of counterterrorism certainty is that Dr. Meleagrou-Hitchens knows too little about al-Bayoumi to venture any opinion about al-Bayoumi at any level of certainty.

In terms of the rest of the report on Sheikh Anwar’s lectures, there is an evolution toward a neojihadi frame, which comes to maturation in 2006, but this takes us far away from the issues in the present litigation. All Sheikh Anwar’s lectures with neojihadi themes postdate the 9/11 attacks, and his radicalization toward them seemed to have been accelerated by his harassment by the FBI,²⁰²⁷ and especially the unprovoked 2003 U.S. invasion of Iraq, which made him flee the country.

Dr. Meleagrou-Hitchens concludes with his overall opinion, “it is my professional opinion, within a reasonable degree of certainty, that Awlaki had some knowledge of the al-Qaeda connections of Hazmi, Mihdhar, and Hanjour had, and he [*sic*] that he used his standing, positions and experience in the United States to help acclimate and settle the hijackers into their lives in American and keep them on track. Awlaki’s role in the U.S.-based support

²⁰²⁷ Even during his custodial 2007 interviews with the FBI in Yemen, al-Awlaki reminded them of the accusation of being involved with prostitutes, see FBI FD 302, Anwar Aulaqi (7/3/2007), July 16, 2007, FBI008104–15, at FBI008114.

network involved working through and in concert with Saudi officials and agents, who trusted Awlaki as both an ideological mentor and an operational facilitator.” (47) The basis for this opinion is:

- “Awlaki’s pre-9/11 output:” (47) Dr. Meleagrou-Hitchens presents no evidence in his report linking Sheikh Anwar’s knowledge of al-Hazmi and al-Mihdhar AQ status and Sheikh Anwar’s lectures and sermons.
- “[H]is [Awlaki’s] trajectory immediately after 9/11:” (47) Sheikh Anwar of course learned about the status of al-Hazmi and al-Mihdhar as AQ members immediately after 9/11 from the press and from his FBI interviews, in which he strongly condemned the attacks.²⁰²⁸ His trajectory immediately after the 9/11 attacks was first to be a bridge between Muslims and non-Muslims, and he was one of the most sought-after Muslim speakers in the country. He preached at the regular Friday Muslim prayer at the U.S. Capitol in July 2001 and spoke at the Pentagon in February 2002. His lecture on 1 September 2001 in Chicago was on “Tolerance: A Hallmark of Muslim Character.”²⁰²⁹ His trajectory after 9/11 was strongly influenced by the March 2002 Operation Green Quest carried out against Northern Virginia Muslims. His indignation was worded in terms of the American Civil Rights Struggle, not in terms of jihad.²⁰³⁰ He fled the United States when the FBI was building a case against him for crossing state lines to hire the services of prostitutes.²⁰³¹ There is nothing in this immediate post-9/11 trajectory that Dr. Meleagrou-Hitchens links with Sheikh Anwar’s alleged knowledge of al-Mihdhar and al-Hazmi’s AQ status.
- “[T]he extensive connections he [al-Awlaki] nurtured with [al-Mihdhar and al-Hazmi] and the wider 9/11 support network of Saudi officials and agents in California:” (47) I put aside Hanjour and the alleged Northern Virginia network since it is beyond the scope of this litigation. Sheikh Anwar had a lot of connections within the pious Salafi community

²⁰²⁸ FBI FD 302, Anwar Aulaqi, September 15, 2001, at 2. See the 12-volume FBI file on Sheikh Anwar al-Awlaki in the FBI Vault, available at <https://vault.fbi.gov/anwar-nasser-aulaqi>. See also Scott Shane, 2015, *Objective Troy: A Terrorist, a President, and the Rise of the Drone*, New York: Tim Duggan Books, as well as my above cited expert report on WAMY in this litigation.

²⁰²⁹ Shane, 2015, at 99.

²⁰³⁰ See Shane, 2015, at 104, 118 for excerpts of his post-raid sermon.

²⁰³¹ This was also what Zeid told the FBI in his 2011 interview at FBI000219REVISED.

in Southern California, but, as previously mentioned, there is no evidence that this community self-organized into a support network for the hijackers. It is what is at stake in this litigation, and Dr. Meleagrou-Hitchens has not demonstrated how individual victims of the hijackers' exploitation organized themselves into a network. They simply remained individuals [Zeid, al-Bayoumi, etc., ...] whom the future hijackers exploited into helping them. In fact, there are only very few mentions of Sheikh Anwar's connections to the two future hijackers and therefore his connections to them were present but far from being extensive according to the evidence. Nor is there any evidence that Sheikh Anwar nurtured these connections with the future hijackers and the wider alleged Saudi support network. If anything, the two hijackers met non-Saudis at the Al-Ribat Mosque: Zeid and Noaman (Yemeni), Abdoun (Algerian); [REDACTED] (Jordanian)... There is no evidence that Sheikh Anwar introduced any of them to the future hijackers.

So, it seems that the basis of Dr. Meleagrou-Hitchens' opinion does not support his opinion at all, even to a reasonable degree of certainty. Again, there is little evidence that Sheikh Anwar used his standing, positions, and experience in the United States to help acclimate and settle the hijackers into their lives in America and keep them on track. As just stated, I have not seen any evidence that Sheikh Anwar ever introduced the future hijackers to his congregants or directed them to help the hijackers. There is the possibility that he tried to help the future hijackers to lease their apartment at the Parkwood Apartments, but if he was the stranger who allegedly came with them before al-Bayoumi got involved, he failed to help them. Again, Dr. Meleagrou-Hitchens provides no evidence in the body of this report to support this part of his opinion.

The last sentence of the opinion is based on the assumption of a "U.S.-based support network," which Dr. Meleagrou-Hitchens just assumes without providing any evidence for its existence. There were some telephone exchanges with al-Bayoumi and al-Thumairy, but they clustered around the visit of other imams from Saudi Arabia. There is no evidence that Dr. Meleagrou-Hitchens presented that Sheikh Anwar was working in concert with any "network" to assist the future hijackers. Nor did he present any evidence (nor did I discover any in the discovery material) that Saudi officials and "agents" trusted Sheikh Anwar as both an ideological mentor and an operational facilitator. It is hard for me to imagine that Sheikh Fahad, who had a Master's from Imam University and was a senior Saudi Salafi imam in Southern California,

Dr. Nakhleh concludes this section, “successive generations of Saudi students, and increasingly Saudi-educated foreigners, have emerged out of this educational system highly susceptible to the case for violent jihad against the United States and the other ‘enemies’ of Islam. On the one hand, the case based on Wahhabi jihadi doctrine would be drilled home by Imams and preachers in Saudi mosques, which also proliferated under the intensified da’wa drive; on the other hand, the fertile field of Saudi-educated students would be expressly targeted – not least on their campuses – by the purveyors of other trends in Islamic radicalization, from the ‘literati’ of the Islamic Awakening, to the ‘recruiters’ for global terrorism.” (26–7)

This conclusion rests on many untested assumptions. Are Saudis (assuming they all went to Saudi schools) more likely to carry out terrorism against the United States and other “enemies” of Islam? Dr. Nakhleh supports this contention on the 2021 post-closing EC that claims a disproportionate high number of terrorism investigations directed at the Saudi student population in the U.S. This is not a good measure of the alleged nefarious influence of a Saudi education. The first step to find empirical support for this proposition is simply to check whether the per-capita frequency of neojihadis in Saudis is higher than in other countries. The second is to remove confounding factors from this alleged relationship ... and so on... Such type of testing is common methodology in the social science. Instead, Dr. Nakhleh cites a non-authoritative EC that claims a disproportionate rate of AQ related FBI terrorism investigations among Saudi students in the U.S.²⁰³⁴ First, is this true? Second, if so, would this be a selection bias, as just being Saudi might make people suspicious that someone is linked to AQ? Third, why investigations, which reflects just suspicion, and not a more determinative measure such as convictions? Fourth, as Saudi students in the U.S. have already two common characteristics, being Saudi (educated) and studying in the U.S., can this analysis distinguish between these two variables? It may be the case that the way the U.S. population or government treats these students may have radicalized them, instead of their Saudi education. This might be especially true if they were subject to an FBI investigation as such an investigation has the potential to turn people against the U.S. government. Like Dr. Nakhleh, I also have experience talking to Saudis, and one of their common complaints was how they were treated by the U.S. government when they came to the United States. The blatant prejudice against Saudis displayed by Dr. Nakhleh

²⁰³⁴ EO14040-003603-UPDATED-MDL.

and the author of the unauthoritative post-closing EC is an example of such U.S. government attitudes (Dr. Nakhleh was at the CIA and the author of the EC at the FBI) against Saudis.

The next sentence in Dr. Nakhleh's conclusion of this section confuses Saudi Salafi doctrines with neojihadi doctrines. The two are not the same and indeed they are quite opposed to each other as demonstrated in section II B of this report. Even in the KSA, there is a spectrum of Salafi doctrines, some for the government, others against it. Dr. Nakhleh lumps them all together into a "Wahhabi jihadi doctrine." On the contrary, the KSA government is careful to monitor the teachings of imams and preachers in Saudi mosques to ensure that they are not anti-government. The KSA government encourages Salafi proselytism, but the type of Salafism that it encourages is a quietist type, eschewing politics as shown in section II B of this report. By 1999, some of the prominent "literati" of the Sahwa movement, like Sheikh Salman al-Auda, had reversed course and abandoned their earlier opposition to the Saudi government. As previously mentioned, he went on to condemn the 9/11 attacks and even bin Laden personally. So, Dr. Nakhleh's lumping all Saudi Salafis into the same group misses some of the strong infighting within the Saudi Salafi camp, as demonstrated earlier in the report and as reflected by bin Laden's faxes from London and his interviews, as shown in sections II A and B of this report.

b. The King's response and the outcomes of "al-Sahwa" demands

I agree with Dr. Nakhleh that the Memorandum of Advice was an important event in Saudi Arabia. (27–39) However, I disagree with his interpretation of the outcome of this memorandum, as described in section II B above. One of the consequences of this memorandum was the creation of the MoIA to fight against the Sahwa movement. The bin Laden statements from London, quoted in section II B, clearly show that he was opposed to the MoIA and the creation of a High Council of Islamic Affairs presided by Princes Sultan and Nayef, which bin Laden called "Higher Committee for Harm."²⁰³⁵ I am not sure how "bin Laden was the immediate beneficiary" of the king's response to the Sahwa movement. (37) The interpretation of the creation of the MoIA to fight the Sahwa movement and spread a quietist version of Salafism loyal to the royal family is shared by prominent scholars of Saudi Salafism and the period of the Sahwa insurrection.²⁰³⁶ This is contrary to Dr. Nakhleh's statement that "the

²⁰³⁵ Bin Laden, 1994–8, statement 10, October 15, 1994.

²⁰³⁶ See especially Lacroix, 2011, at 207–11.

establishment of the Saudi Ministry of Islamic Affairs (MOIA) ... was in my opinion actually a concession to the Wahhabi religious faction among the signatories [of the memorandum], serving al-Qa'ida's and other jihadists' agenda in the long run." (39) This seems to be a contrarian interpretation of the creation of the MoIA and is contradicted by the fact that the MoIA Minister Sheikh Abdullah al-Turki accompanied Prince Turki, the director of the Saudi GID, to Qandahar in June 1998 to demand from Taliban leadership the extradition of bin Laden to Saudi Arabia for prosecution, as described in section II C (c) of this report. Dr. Nakhleh provides no evidence in support for his strange opinion, as there is no citation at all in this section of his report.

c. Al-Qa'ida's leader Usama bin Ladin as a capacitor and conduit for the coherent articulation and propagation of Wahhabi jihadist causes

In his next section, Dr. Nakhleh displays a naïve and simplistic understanding of the history of the neojihadi movement (39–46) that is described in much greater detail and nuance in Part II of this report, along with a large amount of citations in addition to my own personal experience. In fact, Dr. Nakhleh provides not a single citation in this section, only three footnotes, which are explanations and elaborations of his text. His misunderstanding of this movement and resultant mischaracterizations in this section are so numerous that it would take me far more space to correct his allegations. Let me focus on just the few that are most relevant to this litigation.

First, there is no "oneness" of Islamic causes, (40) but multiple conflicts rooted in local issues in which Muslims are involved: Afghanistan, Bosnia, Chechnya, Kashmir, Palestine, etc., ... There is a notion of oneness of God (al-Tawhid) in Salafi doctrine, but not in classical neojihadi doctrine, which is divided into defensive jihad and offensive jihad. All the conflicts cited above deal with non-Muslim invasion of Muslim lands, defensive jihad. On the other hand, by the late 1990s, bin Laden was promoting a new doctrine of offensive type of jihad against the United States, which was confusing to Muslims and Saudis in particular, as previously described in Part II. Most of the Saudis who came to Afghanistan in 1999 and later became the 9/11 attacks hijackers had come to Afghanistan, not because they were attracted by bin Laden's arguments as

Youssef continues that Morgan had reported that al-Bayoumi had told him “that he discussed setting up an apartment with the apartment complex manager prior to the arrival of al-Hazmi and al-Mihdar in San Diego.” (176) This is taken from the plaintiffs’ lawyers’ declaration drafted for Morgan.²²⁶⁹ As shown in section III E, Morgan gave eight different versions of his relevant interactions with al-Bayoumi. His information was all over the place and mutually contradictory. The version in his declaration is from Morgan⁵, but the other versions Morgan gave contradicted this version. Here again, the information that al-Bayoumi discussed setting up an apartment with the manager is left alone as Youssef neglects to mention that this is only one of the eight versions given by Morgan and that the other versions contradict this one. Furthermore, the rental manager, who was interviewed several times on this topic and even submitted a declaration, never mentioned that al-Bayoumi discussed setting up an apartment for the hijackers prior to their arrival.

Any discovery material contains information that is contradictory. As stated multiple times in this rebuttal, an expert with integrity should lay out all the pertinent information in the discovery material on a critical issue for the litigation and then discuss the reason behind a particular selection as probably closer to what occurred. Youssef selects only information, when he does not distort it, that is consistent with his hypothesis and completely ignores the rest. These two insinuations by Youssef are just two examples of what he does throughout his report; claiming the erroneous information as facts upon which he offers an opinion.

Based on this above distortion of the evidence, Youssef concludes, “Bayoumi’s admission to Morgan about his actions regarding setting up an apartment in San Diego before his purported first meeting with the hijackers at the Mediterranean Restaurant in Los Angeles, shows that his meeting with [the] hijackers was a planned event and not just ‘a coincidence,’ as Bayoumi claimed.” (176) In all Morgan versions before he met the plaintiffs’ lawyers, it was Morgan who insisted that the meeting with the hijackers was a coincidence. I lay out all the discovery material versions of this first meeting in chronological fashion in section III D (b), and analyze them, according to the evolution of the FBI investigation in section IV D (a). This is what an expert with integrity is supposed to do, not offer opinions based on flawed premises.

²²⁶⁹ Morgan declaration, at 8.

Al-Bayoumi was a fellow student of Hashim al-Attas and called him on occasion. Al-Attas returned home, and the calls ended. At one point, the hijackers wanted to pick up al-Attas's lease, but somehow this fell through. Youssef tries to insinuate that the calls to al-Attas were in preparation of the hijackers coming in.

Youssef then cites again CHS LA's very problematic 2017 reporting that al-Bayoumi and the hijackers were seen in Los Angeles on multiple occasions, not only at the Mediterranean Restaurant but also at the nearby Starbucks. (176–7). I have addressed CHS LA's unreliable reporting several times throughout this report. Youssef also should know that this report is very unlikely since Youssef's report alerted me to look at al-Bayoumi's gas consumption. Given the distance between San Diego and Los Angeles, al-Bayoumi almost used a tank of gas per round trip. He also paid his gas by credit card. His credit card bill, which I address in the next subsection, would make this claim very unlikely, as his gas bill was not compatible with multiple trips to Los Angeles between 15 and 31 January 2000.

17. Al-Bayoumi's trip to Los Angeles

In the subsection, **“January 31 and February 1, 2000: Bayoumi visits Los Angeles (twice) and meets Hazmi, Midhar, Mana (at least twice), and Thumairy,”** Youssef is convinced that al-Bayoumi went to Los Angeles twice, on 31 January and 1 February 2000. The basis for his claim is the Saudi renewal form for his passport dated 31 January 2000, which stated that he visited the consulate on that day.²²⁷⁰ The basis for the second date is simply that this had been determined by the 9/11 Commission and was allegedly confirmed by al-Bayoumi's cell phone records and fuel charges. (177–8)

I do not believe that the 9/11 Commission had the benefit of reviewing al-Bayoumi's visa application form with its date of 31 January 2000, or the consulate's report about it. Instead, it went by the date his passport was issued, which was the next day, 1 February 2000.²²⁷¹ The Commission thus may have wrongly concluded that the trip took place on the day the passport was issued. To me, the visa application form speaks for itself, and as I wrote in section III D (b), I believe that al-Bayoumi and Morgan traveled to Los Angeles on 31 January 2000. There was only one trip. Unlike Youssef, I did not find the telephone analysis, in subsection IV G (b) vi,

²²⁷⁰ KSA0000006648, see also KSA0000006643.

²²⁷¹ *9/11 Commission Report*, at 217.

helpful in distinguishing between the two days and it does not suggest that al-Bayoumi traveled twice to Los Angeles.

Let us look at al-Bayoumi's car gas consumption, which, Youssef argues, supports his two-trip theory. Al-Bayoumi bought fuel on 30 January for \$18.48 at Texaco in San Diego and on 1 February for \$19.42 at Shell in San Diego.²²⁷² According to Youssef, gas prices in Southern California around that time averaged between \$1.32/gal and \$1.41/gal, and that the driving distance between al-Bayoumi's home to the Saudi Consulate in Los Angeles was about 125 miles. From this data, Youssef writes, "I have concluded that these fuel purchases are consistent with Bayoumi making two roundtrip visits to the Consulate on January 31, 2000, and February 1, 2000." (FN 720, at 178).

I am not convinced. The gas purchases show that al-Bayoumi drove a long way between these two dates, but it does not say much about his driving after the second purchase. Instead, let us look further. Al-Bayoumi had a used 1995 Nissan Altima,²²⁷³ which had a tank capacity of 15.9 gallons and an average fuel consumption of about 24 mpg.²²⁷⁴ Since al-Bayoumi went to several places that day, these detours must be added to the distance between his home and the consulate, namely stopping to get a passport picture, going to the consulate, getting lost on the way to the mosque and ending up at the restaurant... Let us round up the trip to about 280 – 300 miles round trip. As a rough measure, given the car's gas consumption, this would take about 11 to 12 gallons.

Now, let us look at the gas purchases. In January, taking the average price per gallon at \$1.36, he purchased gas on 2 January at Arco San Diego for \$15.90 (11.7 gal); 9 January at Shell San Diego for \$17.26 (12.7 gal); on 15 January at Shell San Diego for \$17.27 (12.7 gal); on 22 January at Shell San Diego for \$17.27 (12.7 gal);²²⁷⁵ on 30 January at Texaco San Diego for \$18.48 (13.6 gal); 1 February at Shell San Diego for \$19.42 (14.3 gal); 5 February at Shell San Diego for \$16.79 (12.3 gal); and 11 February for \$17.08 (12.6 gal).²²⁷⁶ This shows a gas consumption of about 12 gallons a week, with just one extra filling on 1 February of about 12 gallon, far more compatible with just one trip to Los Angeles than two.

²²⁷² FBI002388.

²²⁷³ FBI004164, FBI008242, Bayoumi MPS, 01-09-23, C, at 15–6.

²²⁷⁴ <https://www.edmunds.com/nissan/altima/1995/features-specs/>

²²⁷⁵ BANA ALB 0002.

²²⁷⁶ BANA ALB 0005.

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